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ABSTRACT

The document reviews the New York State Education Department's management of state aid for remedial education in the program for serving Pupils with Special Educational Needs (PSEN), the intent of which is to help low-achieving students overcome their disadvantage in learning. Four separate aspects are examined: (1) program intent, evolution, and magnitude (the PSEN program has not been administered in accord with legislative intent since 1979-80; (2) program administration (problems include confusion over guidelines and lack of enforceable standards); (3) program accountability (available data were deficient for basic management purposes and district information was deficient for program accountability, largely due to inadequacies in guidelines for district reporting); and (4) fiscal accountability (district expenditure reporting is not in compliance). Among appendixes are the State Education Department's response and the rebuttal of the Legislative Commission on Expenditure Review. (CL)

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Legislative Commission On Expenditure Review

Pupils with Special Educational Needs

Program Audit
April 1982

SUMMARY AND CONCLUSIONS

This program audit assesses the State Education Department's (SED) management of and accountability for the State aid it provides to school districts for remediating public elementary and secondary school children called PSENs--pupils with special educational needs. SED also administers the closely related federal aid program, Title I of the Elementary and Secondary Education Act of 1965. Together, the PSEN and Title I programs have generated the amounts of State aid for school districts outside New York City as shown in Chart S-1, for the period studied, 1978-79 to 1980-81. (New York City has been excluded because it was recently studied by the State Comptroller's Office.) This period includes the last year in which the PSEN and Title I programs were managed separately (1978-79); a transition year (1979-80); and the first year in which SED administered the programs together (1980-81). Accordingly, this audit measures program and fiscal accountability of the PSEN program before and after its unification with Title I.

Legislative Intent

The intent of PSEN legislation, as expressed in Section 3602 of the Education Law, is to authorize SED to distribute PSEN funds to school districts as an addition to those districts' operating aid. Operating aid is usually provided automatically on the basis of a formula, and usually with few restrictions. However, this legislation also included provisions for PSEN aid which are more consistent with those of categorical aid--aid provided with detailed requirements for its use, and with prior SED approval required before it can be obtained. These provisions of PSEN aid include:

--The requirement that this aid be used for pupils in need of remediation, rather than the general school population;

--Planning and reporting requirements so that PSEN program and fiscal accountability can be established; and

--A link between PSEN funds and their intended purpose of remediation.

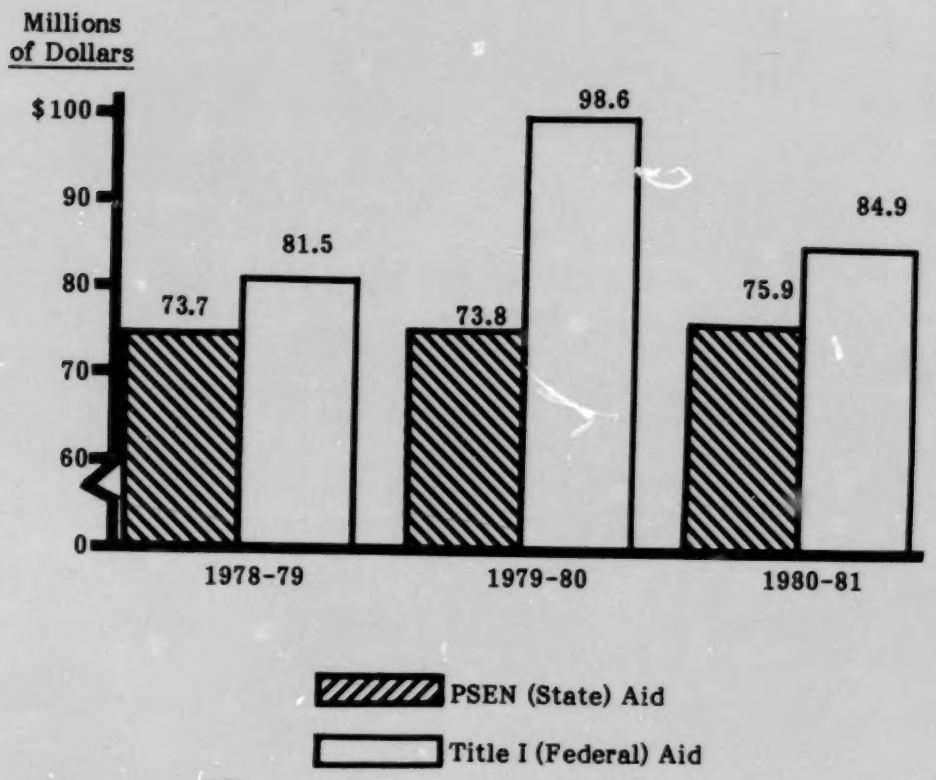
However, this link is after-the-fact, since noncompliance is to be remedied by a deduction from the district's following year's PSEN funds, and not by a refusal of SED to fund the current year's program if prior approval is not obtained. Prior approval was not a part of legislative intent.

Program Administration

In administering the PSEN program, SED has attempted to change that program to make it instrumental to SED's introduction of new education program components such as PSEN/Title I unification, Statewide minimum competency testing, and the mandated remediation of pupils scoring poorly on those competency tests--administrative changes that exceeded the limits of legislative intent. Essentially, the PSEN program was redefined not because of amendments to PSEN enabling legislation, but because of these administrative changes made outside of the legislative process.

Chart S-1

Amount of PSEN and Title I Aid Received*
1978-79 to 1980-81



*Excludes New York City.

Source: SED, Division of Educational Finance.

The "prior approval" requirement is one such administrative change. Through most of PSEN's history, prior approval was not needed. But with the consolidation of the PSEN and Title I program applications, SED required that districts' applications be approved before programs began, reflecting SED's belief that prior approval complied with legislative intent. Yet, legislation provides only after-the-fact control on the flow of PSEN funds. Therefore, in invoking a prior approval requirement, SED is relying more on its powers relative to Title I--a categorical aid program--than on the intent of PSEN legislation.

Program Application Review and Monitoring

SED's adoption of a consolidated program application for PSEN and Title I has improved coordination, but has led to loss of accountability, since, in many instances, the application calls for "lumping" PSEN and Title I information. But districts visited by LCER showed that coordination could be achieved without sacrificing program identity and accountability. For example, PSEN funds might be used for remedial reading, and Title I for remediation in mathematics. Or PSEN programs might operate in the

early elementary grades, while Title I programs would function in the upper grades.

Review of program applications has been the predominant workload of the newly unified PSEN/Title I administrative unit (the Division of Education Opportunity Programs), and of the subject matter units involved in the PSEN program (i.e., the Bureau of Reading Education, the Bureau of Mathematics Education, etc.). LCER found that the program application review role has not resulted in an improved PSEN program. Instead, it has usually only meant that school districts must keep submitting information to SED, so that their applications are more complete.

Because of this, SED manpower has been diverted from monitoring district programs. Monitoring would tell SED more about districts' PSEN programs than would the review of program applications, and it would also provide a check on those applications. Although program monitoring had increased from the period before unification, it was still found insufficient to assure that funds were spent in accordance with legislative intent.

Another reason that monitoring has not yielded its full potential for assuring program and fiscal accountability has been the lack of comprehensible and, hence, enforceable guidelines and standards for the PSEN program. Throughout PSEN's history, confusion over the definitions of eligible program participants, services, and costs have contributed to limited accountability. SED has only recently compiled PSEN program guidelines and issued a handbook to its monitoring staff. These accomplishments just begin to fill this insufficiency, as evidenced by SED's difficulty in developing a chart containing such basic program information as eligible participants, services and costs.

Program and Fiscal Accountability

Despite a clear legislative mandate to the contrary, SED insists that fiscal, not program, accountability is sufficient for the PSEN program. SED's program information reflects this view, for in the transition to unified program administration, SED eliminated the requirement that school districts provide SED with separate PSEN and Title I program evaluation information.

Even during the years before 1979-80 when SED accounted separately for PSEN's the Department failed to compile program information for district use. And 1979-80 reports were not returned to districts until May or June 1981, greatly limiting their program planning usefulness.

Other instances of weak program information have hampered program accountability:

--SED data cannot be used to determine if the PSEN program is meeting the estimated need for that program. For example, "unduplicated counts" of those actually served by PSEN programs, although available, have not been used in the program's administration and were found not fully reliable in LCER's checks of district information.

--It is impossible to accurately determine if pupils served by the PSEN program are those who should have been served. While the PSEN enabling legislation defines PSENs in relation to statewide tests, such tests are not administered in every school grade. Therefore, districts usually employ other standardized tests to determine PSEN eligibility. However, SED has not developed a reliable way to equate statewide tests with standardized ones and therefore, cannot assure the Legislature that the PSENs served were the ones intended to be served.

LCER also found fiscal accountability wanting. Contrary to legislative intent, districts do not report PSEN expenditures, because SED allows districts to "lump" local spending with expenditures from State aid. In addition, SED requires that districts use a detailed PSEN financial form for budgeting only, when that form was also intended for expenditure reporting. Therefore, SED has no data showing how PSEN funds were spent.

Although SED is able to deduct from a district's next year's PSEN funds the amount of any current PSEN funds diverted from their intended use, few such deductions have ever been made. Deductions that were made generally stemmed from underreporting of expenditures, not SED's identification of a district's misuse of PSEN funds. In fact, SED has shown a policy of not allowing districts to lose aid because of such underreporting.

In addition to these deficiencies in SED's program and fiscal accountability, information maintained by school districts was also found inadequate for monitoring or control by SED and the Legislature. Although districts are responsible by law for the reporting needed for such accountability, it is SED's responsibility to provide the guidelines for such reporting. District information and reporting inadequacies, which simply reflect the weaknesses of SED guidelines, were found to include:

--Inability of districts to readily provide lists of those served by PSEN programs;

--Inability to provide adequate information on program participants served; and

--Inability to account separately for how the PSEN State aid was used.

Conclusions

Program and fiscal accountability for PSEN State aid have been inadequate to fulfill reporting requirements specified in the enabling legislation. Although the legislation's emphasis on after-the-fact control may not provide as much accountability as a categorical aid program would require, SED has not even complied with those provisions of legislative intent which attempt to achieve accountability.

Without significant change in legislative intent, SED has administratively redefined the PSEN program. This has enabled SED to use PSEN funds to support its initiatives in the unification of PSEN/Title I program administration, the introduction of a State minimum competency testing program and the implementation of mandated remediation for those scoring inadequately on tests used in this new competency program. These are all worthy objectives, but use of PSEN funds to accomplish them does not have to result in the loss of PSEN accountablity and the resultant lack of compliance with legislative intent observed. SED administration of this program has resulted in the loss of an identifiable PSEN program in many respects. This is not in keeping with the Legislature's intent to assure the use of PSEN funds for their intended purpose.

Findings for Comment by the State Education Department

Chapter 58 of the Laws of 1980 requires heads of agencies which have been examined to report within 180 days of receipt of the final program audit to the Chairman of the Legislative Commission on Expenditure Review and the Chairmen and Ranking Minority Members of the Senate Finance Committee and the Assembly Ways and Means Committee on what steps have been taken in response to findings and where no steps were taken, the reason why.

1. The consolidation of PSEN with Title I and local remedial programs to assure coordination resulted in a loss of program accountability. SED views a fiscal audit trail for PSEN as sufficient for accountability purposes and believes that maintenance of a programmatic audit trail (i.e., readily identifiable PSEN programs) might hamper achievement of coordination. (See p. 5.)

2. SED has shifted to a prior approval of PSEN funds similar to categorical aid programs where ultimate program approval is not assured. However, Section 3602 of the Education Law calls for deductions in the year following the year in which State aid is given. PSEN was intended to be operating aid while prior approval is an integral part of categorical aid. SED is administering this pro-

gram as if it were providing categorical aid. (See pp. 2, 3, 5, 6.)

3. Problems with PSEN program administration go beyond the need for coordination and include confusion over guidelines, lack of enforceable standards, emphasis on program application review that yields little assurance of program compliance with legislative intent and guidelines, and a lack of emphasis on program monitoring. (See p. 22.)

4. Program information necessary for program accountability but not available includes: studies to equate the various statewide and standardized tests used to determine pupil eligibility, data differentiating first-time from continuing program pupils and definitions of eligible program activities and costs. These definitions are needed because SED has removed the requirement that PSEN programs be "in addition to" the regular program of instruction. (See pp. 14, 15, 40.)

5. The SED program evaluation information system was deficient because PSEN students' test results were lumped with those for Title I pupils. However, both legislative intent and SED's rules and regulations require separate PSEN effectiveness reporting. (See p. 40.)

6. District expenditure reporting to SED is not in compliance with legislative intent because SED allows local spending to be lumped with expenditures from State aid. As a result of this lumping and of failure to use a more detailed PSEN financial form for expenditure reporting, there is no information from SED on how PSEN funds were used. (See p. 46.)

7. Minimal deductions have been made by SED for PSEN State aid that was not used or was inappropriately used. This results from difficulty in determining eligible program services, limited program monitoring and SED's not allowing districts to lose funds because of underreporting of expenditures. (See. p. 46.)

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FOREWORD

The Legislative Commission on Expenditure Review was established by Chapter 176 of the Laws of 1969 as a permanent legislative agency for among other duties, "the purpose of determining whether any such department or agency has efficiently and effectively expended the funds appropriated by the Legislature for specific programs and whether such departments or agencies have failed to fulfill the legislative intent, purpose and authorization," and to "make a comprehensive and continuing study of. . .the program of and expenditures by state departments." This program audit, Pupils with Special Educational Needs is the ninety-sixth staff report.

This audit reviews the State Education Department's management of State aid for remedial education. The State program established for serving Pupils with Special Educational Needs (PSEN) is closely akin to a federal aid program for remediation, Title I of the Elementary and Secondary Education Act of 1965. The State Education Department (SED) has adopted a unified approach to the administration of these programs. While the SED intent to achieve improved program coordination is commendable, the audit found that the programs were grouped together which resulted in a loss of program accountability for the State program.

Legislative intent was specific in its reporting requirements for PSEN, and the SED merger of these programs produced information that failed to fulfill reporting requirements. SED also introduced rules and regulations that went beyond legislative authorization. One such change was the shift to prior approval of PSEN programs. PSEN was intended to be operating aid, to which there was automatic entitlement for districts serving PSEN eligible pupils. For SED to apply a prior approval requirement incorrectly implied that it could have denied a district its share of PSEN aid.

Appreciation is expressed to SED and the school districts involved in this study. Appendix F contains the SED comments on this study along with an LCER rebuttal.

In accordance with commission policy, this report focuses on factual analysis and evaluation. Recommendations and program proposals are not presented since they are in the realm of policymaking and therefore the prerogative of the Legislature.

The audit was conducted by Stuart Graham, Chairman; Joel Margolis and Karen McNamara. Research assistance was provided by Lynn Aronson. Bernard Geizer served as general editor and Elaine Fromer edited the Summary and Conclusions. James Haag handled layout and production. Word processing and graphic services were provided by Nancy Neubauer. Overall supervision was the responsibility of the Director.

The law mandates that the Chairmanship of the Legislative Commission on Expenditure Review alternate in successive years between the Chairman, Senate Finance Committee and the Chairman, Assembly Ways and Means Committee. Assemblyman Arthur J. Kremer is Chairman for 1982 and Senator John J. Marchi is Vice Chairman.

April 30, 1982

Sanford E. Russell
Director

I PROGRAM INTENT, EVOLUTION AND MAGNITUDE

This study assesses the administration by the State Education Department (SED) and by school districts of State aid for Pupils with Special Educational Needs (PSEN's). The PSEN aid provides State funds for remedial or compensatory education programs for educationally disadvantaged students in the State's elementary and secondary public schools.

Historical Background

The PSEN program has been in operation since 1974-75 and replaced an earlier State effort known as Urban Aid, which dated back to 1968-69. Both the old program, which was directed primarily at cities, and the new one which provides State aid to suburban and rural districts as well as to urban schools, are closely akin to the federal aid program for compensatory education (Title I of the Elementary and Secondary Education Act of 1965). Therefore, this audit considers Title I, at least to the extent that its administration by SED affects the PSEN program. (A comparison of the Title I and PSEN programs can be found in Appendix D.) The Title I program has been the subject of recent federal changes that will reduce the amount of federal aid available for compensatory education. Other changes in the Title I program (now known as Chapter I of the Education Consolidation and Improvement Act of 1981) cannot be specified but are being developed.

The Urban Aid Program was dispensed on the basis of poor pupil performance on the State's sixth grade reading test known as the PEP (Pupil Evaluation Program--a statewide testing program that includes examinations given in the third and sixth grades), and on the basis of district size and proportion of district children at or below the poverty level.[1] These additional criteria assured that Urban Aid went primarily to cities and especially to New York City. When it was replaced by PSEN in 1974 the new aid program was viewed by many as having a dual purpose: delivering extra aid to urban school districts and providing aid for extra remedial services for educationally disadvantaged pupils.

The idea for PSEN originated in the early 1970's with two State study groups on educational problems in New York--the New York State Commission on the Quality, Cost and Financing of Elementary and Secondary Education (the Fleischmann Commission) and the Task Force on State Aid for Elementary and Secondary Schools. The two purposes of PSEN aid can be traced to the Fleischmann Commission's statements of what was intended:

> --A programmatic intent that "this extra money be spent to help these particular low-achieving students overcome their disadvantage in learning," and
>
> --A fiscal intent that the PSEN formula aid "would distribute a share of the State's education budget to schools that are characterized by low rates of student progress and are therefore in greater need"--generally large urban areas.[2]

In the early years of PSEN, concern with driving money into urban school districts overshadowed whether this money was being used as intended (i.e., to provide remediation to disadvantaged students.) In the years reviewed in this audit--1978-79 to 1980-81, there was consensus that the PSEN State aid program was to be accountable to assure

that it was providing remedial services to disadvantaged students. However, this controversy over the dual purposes of PSEN is reflected in legislative intent and in SED's execution of that intent.

Legislative Intent

Chapter 241 of the Laws of 1974 repealed provisions for Urban Aid and introduced those for PSEN. As codified in Section 3602 of the Education Law, PSEN aid was added as an extra weighting for an estimate of a school district's total number of educationally disadvantaged pupils. That extra weighting was added to the total operating State aid which a district receives from the State. (See Appendix C for calculation of this additional State aid.)

Because it is provided as operating aid (i.e., aid to which districts have automatic entitlement with few restrictions as to use) rather than as categorical aid (aid directed toward specified purposes with detailed requirements as to use, including the need for application and prior approval), PSEN aid has presented some problems for administrative control. These problems stem from the fact that the flow of funds is not adequately linked to use of this aid for its intended purposes.

However, the wording of legislative intent separates PSEN from other forms of operating aid by its reporting requirements and by the tie between the funds and their intended use:

> Any school district receiving an apportionment partially attributable to the weightings. . .for pupils with special educational needs. . .shall use the total apportionment attributable to such pupils for locally administered programs for such pupils in accordance with regulations issued by the commissioner. Such regulations shall provide for the use of such apportionment in the manner determined by the commissioner to be the most educationally advantageous for such pupils; and such regulations shall also include annual district reporting requirements which shall require the identification of such pupils, a statement describing the expenditure of the preceding year's apportionment for such pupils and an evaluation of the results obtained from such expenditures. A district which spends any part of its total annual apportionment attributable to such pupils in an unauthorized manner in the base year shall have its current year apportionment reduced by the amount of such unauthorized expenditures in the base year.[3]

While there is a link between PSEN funds and their use, it is after the fact (i.e., unauthorized use in one year is to result in deductions the next year) and does not interrupt the flow of State aid into a school district as would occur in a categorical aid program if the administering agency believed funds were used for unauthorized purposes. Nevertheless, there was intent to have administrative control of use of operating aid, and PSEN was differentiated from other forms of operating aid by including provisions for accountability normally associated with categorical aid.

In addition to reporting requirements, the enabling legislation also includes planning:

> Any school district receiving an apportionment partially attributable to the weightings. . .for pupils with special educational needs. . .shall,

> . . .submit to the commissioner an acceptable plan describing the expected use of such apportionment and the expected impact of the proposed plan. Such plan shall be in a form prescribed by the commissioner, and except as heretofore provided, shall have the content prescribed by the commissioner. The commissioner may, from time to time, require amendments of such plans when he deems such amendments to be necessary and appropriate to further the educational welfare of the pupils involved.[4]

Thus, the law specifies planning and program approval requirements, but not in the form of a prior approval process that determined whether or not a district would receive State aid.

The law defines Pupils with Special Educational Needs for calculating the amount of State aid each district should receive. It also has defined the intended target population for this program:

> Pupils with special educational needs shall mean the number of pupils attending the public schools of a district computed as follows: (1) determine the number of third and sixth grade pupils who scored below level four on the reading test and those who scored below level four on the mathematics test for New York State elementary schools administered in the school years nineteen hundred seventy-four-seventy-five and nineteen hundred seventy-five-seventy-six. . . ; divide the sum of such numbers by the number of such third and sixth grade pupils who took each of such test. . . ; express the result as a percentage. . .and (2) multiply such percentage by the district's base year total aidable pupil units minus the district's additional aidable pupil units [derived from aid for PSEN's and other specially aided target populations].[5]

The term, "aidable pupil units" used in this section means a district's K-12 adjusted average daily attendance (calculated on the basis of the section's direction).

It is important to note that the definition of pupils included in the intended target population is based upon an estimate since the PEP's used to establish the benchmark for need are not administered in every school grade. It is also important to note that the law does not specify that all PSEN's have to be served; it simply requires that State aid be used to serve such pupils and not to serve the general student population.

The law also does not specify how such students should be served, but delegates responsibility to the Commissioner of Education to define "the most educationally advantageous [manner] for [serving] such pupils."

The enabling legislation has been revised since its enactment. The revisions have focused on redefining and/or updating the definition of PSEN's used in aid calculation. As originally enacted, it called for use of pupils scoring below level four on the sixth grade tests only; in 1978, those scoring below level four on the third grade tests were added. (For an analysis of how this language squares with that used in the SED rules and regulations for this program, see Chapter II). The initial legislation used the results from years prior to its enactment for the testing base so there would be no manipulation of test results. These base years were updated in 1978 to those currently in use--1974-75 and 1975-76. By retaining prior base years for the original aid calculation, it was thought that districts would not be penalized for success in reducing the number of "low-achieving" students (see Chapter III for analysis of the relationship between State aid formula

provisions and district need). Retention of a consistent set of prior base years offsets the enabling legislation's lack of incentive for improvement; under the existing law if these testing base years are updated, then districts whose PEP test results had improved would receive less PSEN aid.

Program Evolution

Legislative intent for PSEN has remained relatively stable since the program's introduction in 1974 (some revisions have been described and others are in Appendix C). Since 1978, however, SED has administratively redefined the PSEN program. In some respects, the PSEN program has ceased to exist as a separate programmatic effort and has been incorporated into a consolidated approach to compensatory education.

The reason for SED's actions to alter program intent without change in legislative intent was to support other administratively introduced mandates including:

--Introduction in 1978 of a State minimum competency testing program;

--Required remediation for students performing unacceptably on Statewide tests used for this minimum competency program; and

--Unification of Title I/PSEN program administration.

These SED administrative changes were introduced in response to external pressures ranging from the demand to improve educational quality to the need to eliminate administrative duplication and overlap (see Chapter II for more on the need for unification).

The State minimum competency testing program built on the third and sixth grade PEP tests previously used in the PSEN program, but also added new statewide tests primarily at the secondary level and a new subject for testing--writing. Remediation was mandated for those scoring at unacceptable levels on these newly introduced tests. Moreover, districts were also mandated to provide remediation for those scoring poorly on the statewide tests in use prior to the new testing program--the third and sixth grade PEP's.[6]

To assist in the implementation of these mandates, SED created a Resource Allocation Plan Program (RAP) to provide technical assistance to school districts to meet these new remedial needs. RAP is intended to bring all existing resources--federal (Title I), State (PSEN) and local funds--to bear on this problem.[7]

Utilization of Title I and PSEN funds in this manner posed problems. Since Title I is intended to supplement and not to supplant the regular program of instruction, SED was concerned about the impact on continuation of this funding given the newly imposed State mandate for remediation. That is to say, SED believed that since remediation was now mandatory, it might be interpreted by federal officials as the regular program of instruction and not as an activity eligible for continued Title I aid. However, SED secured federal approval for deploying Title I funds in a coordinated compensatory education program.[8]

The other barrier was the definition of intended target population in SED's rules and regulations for PSEN; the definition was not consistent with the requirement for

remediation. The effect of this change expanded the eligible target population for PSEN funds by:

--Shifting the basis of eligibility from two or more years below grade level to scoring below the Statewide Reference Point (the relationship between these points will be reviewed in Chapter II); and

--Adding other State mandated tests and a new subject for testing (writing) to those previously in use to identify pupils in need.[9]

These changes are in addition to the mandate to remediate pupils scoring unacceptably on such tests and to the changes underway throughout the State mandated testing program. A change in the method of testing used to identify those with reading deficiencies in the sixth grade PEP test resulted in an increased number of those scoring poorly. Taken together, these changes are likely to increase the number of pupils for whom remediation is mandated and those to be served through the PSEN program (see Appendix E).

It is also likely that the changes will result in continuing remedial services generally and especially for those provided through PSEN for longer periods of time. This is because the mandate for remediation is to provide remedial instruction to those scoring poorly on a State mandated test "designed to enable them to score" acceptably on the next State mandated test. This means more sustained remediation effort is intended. To implement this objective, SED revised PSEN rules and regulations to enable pupils to continue to be served even if improvement brings them closer to the academic profile of regular students than would be allowed for first-time enrollees in PSEN.[10]

Another change has been unification of Title I/PSEN program administration and of the programs, themselves.[11] The programmatic consolidation of PSEN with Title I and with local remedial programs to assure coordination resulted in a loss of program accountability. This stems from SED's view that a fiscal audit trail for PSEN is sufficient for accountability purposes, and that maintenance of a programmatic audit trail (i.e., readily identifiable PSEN programs) might hamper achievement of coordination.

Unification has also resulted in an increasing emphasis on prior program approval.[12] This stems not from legislative intent, but from the consolidation of PSEN with Title I in such administrative areas as program planning and program application. SED has relied on review of local program plans to achieve its coordination objectives.[13] Previously, there had been less concern with the review of PSEN plans as evidenced by SED's direction to districts to retain plans in the district, unless specifically requested to submit them to SED.[14] In effect, SED has been using its Title I administrative authority to assure district compliance with its PSEN guidelines.

SED believes that invoking a prior approval requirement is fully in accord with legislative intent. In a December 7, 1981 letter to LCER from SED's Counsel, the PSEN planning and reporting requirements are cited and it is concluded: ". . .it is clear that the Legislature did not intend that the Commissioner [of Education] be limited to discovering the misuse of PSEN funds after the fact." Nevertheless, the introduction of such a requirement by SED suggests that if prior approval was not granted, that agency could stop the flow of State aid into a district as a result of its application review. However, Section 3602 of the Education Law calls for deductions in the next year, rather than in the base year. Such an after the fact link to control of the flow of funds seems to preclude any prior approval requirement, or to diminish its efficacy. The issue is simply that PSEN was intended to be operating aid while prior approval is an integral part of a categorical

aid approach. Yet, SED is administering this program as if it were providing categorical aid.

In summary, these administrative changes are not unworthy or unnecessary. Instead, the issue is that the PSEN program has been reshaped without changes in its enabling legislation. As the next section will demonstrate, PSEN State aid accounts for substantial investment in remedial education. The legislative intent for this program requires programmatic as well as fiscal accountability. It is recognized that the Board of Regents has legislative authority, but that power is to be exercised in accord with existing legislation: "Subject and in conformity to the constitution and laws of the state, the regents shall exercise legislative functions concerning the educational system of the state. . . ."[15] This audit will demonstrate that the PSEN program has not been administered in accord with legislative intent since 1979-80.

Program Magnitude

The significance of the PSEN and Title I programs to different types of school districts is demonstrated in Tables 1 and 2. Outside of New York City, 1979-80 PSEN and Title I participants combined included 18 percent of total public school enrollment in the State. The combined programs generated $172.4 million in State and federal aid for 1979-80.

Table 1 shows that Title I participants were concentrated most heavily in large city school districts in relation to the public school enrollments in such districts. PSEN participants were more evenly dispersed among the different types of districts in relation to their enrollments.

A comparison of how participants are distributed among school districts (without regard to overall public school enrollment) shows that in 1979-80, over 55 percent of PSEN pupils were concentrated in village and large central school districts while Title I participants were not as concentrated in any type of district:

School District Category	1979-80 PSEN Percent Distribution	1979-80 Title I Percent Distribution
Large Cities (Excluding New York City)	8.4	16.4
Medium Size Cities	3.8	5.0
Small Size Cities	11.0	10.6
Village and Large Central School Districts	55.8	44.0
Large Rural Districts	14.4	15.8
Small Rural Districts	6.6	8.2
Total	100.0	100.0

Yet, Title I participants are more abundant in large city school districts than are PSEN participants because Title I requirements take into consideration economic disadvantagement as well as educational disadvantagement. By contrast, PSEN eligibility is defined only in terms of educational need (see Appendix B for more comparative information on the two programs).

Table 1

Relationship of
PSEN and Title I Participants
to Total Public School Enrollment
1979-80

School District Category	Number of PSEN Participants	Number of Title I Participants	Total Public School Enrollment	PSEN Proportion of Enrollment	Title I Proportion of Enrollment
Large Cities*	16,053	26,727	159,029	10.1%	16.8%
Medium Size Cities	7,263	8,128	67,772	10.7	12.0
Small Size Cities	21,037	17,368	181,997	11.6	9.5
Village and Large Central School Districts	106,864	71,723	1,171,175	9.1	6.1
Large Rural Districts	27,557	25,829	270,453	10.2	9.6
Small Rural Districts	12,707	13,314	117,159	10.8	11.4
Total	191,481	163,089	1,967,585	9.7	8.3

*Excludes New York City.

Source: Calculated by LCER staff from information furnished by SED's Center for Education Information on Categorically Aided Program Participants.

Table 2 shows the relative importance of State and federal aid in 1979-80. Outside New York City, PSEN aid accounted for 42.8 percent and Title I accounted for 57.2 percent of aid received from both compensatory education programs. The table shows the importance of federal aid to all types of districts, but especially to large city school districts, where it accounts for 69 percent of the combined aid. In comparison, PSEN aid is most important to village and large central school districts. Although this type of district receives more federal aid than State aid, the federal aid represents 40 percent of Title I assistance outside New York City while 50 percent of upstate PSEN aid is received by such districts.

Table 2

Relative Amount of State Aid Received (PSEN)
and Federal Aid Received (Title I)
by School District Category
1979-80

School District Category	PSEN State Aid Received	Title I Federal Aid Received	Total	Percentage PSEN	Percentage Title I
Large Cities*	$10,156,170	$22,646,036	$ 32,802,206	31.0	69.0
Medium Size Cities	3,185,551	5,389,244	8,574,795	37.2	62.8
Small Size Cities	7,753,990	11,636,198	19,390,188	40.0	60.0
Village and Large Central School Districts	36,624,511	39,573,950	76,198,461	48.1	51.9
Large Rural Districts	11,409,623	12,442,369	23,851,992	47.8	52.2
Small Rural Districts	4,665,880	6,949,877	11,615,757	40.2	59.8
Total	$73,795,725	$98,637,674	$172,433,399	42.8	57.2

*Excludes New York City.

Source: Calculated by LCER staff from information furnished by SED's Division of Educational Finance.

While this comparison shows that PSEN aid does not equal 50 percent or more of the combined aid in any type of district, its importance should not be underestimated. This is because PSEN aid must be spent in the year it is received or it will be lost whereas Title I aid includes payments for expenditures in a prior year and/or reimbursement or advance payment for expenditures during the year in which it is received.[16] SED was unable to furnish comparable expenditure data for PSEN and Title I or determine the relationship between aid received and spent in a given year for these programs.[17] Therefore, aid payments (i.e., revenues) had to be used for comparison with these caveats. (See Chapters III and IV for other problems encountered with SED's PSEN data.)

Audit Scope and Methods

This study reviews the PSEN program management and information adequacy. The roles of SED and school districts are assessed with respect to program and fiscal accountability. The study also assesses the impact on accountability of unification of PSEN/Title I program administration by comparing and contrasting 1978-79 (the last year PSEN was administered separately), to 1979-80 (a transition year) and to 1980-81 (the first year of complete unification).

SED and school district organization for PSEN management are reported. Consideration is given to program application review, program monitoring, program evaluation and fiscal reporting. The audit made case studies of 11 school districts selected to represent urban, suburban and rural locations (see Appendix D). Districts were selected proportionately to the distribution of State aid for PSEN within the following categories:

--Large City School District--Syracuse;

--Medium Size City School District--White Plains;

--Small Size City School District--Newburgh;

--Village and Large Central School District--Brentwood, Brighton, Nyack, Shenendehowa, West Hempstead;

--Large Rural School District--Highland, Richfield Springs; and

--Small Rural School District--Northville.

Although these districts were selected randomly within the categories listed, they represent too small a sample for definitive inferences to all districts in these categories. However, preliminary LCER research conducted in other districts not included in the case studies reported indicated that the audit's findings have applicability to other districts.

The audit also presents information on all State school districts within these same categories. However, New York City is excluded from this audit since it was the subject of a recent report by the New York State Department of Audit and Control.[18] Moreover, the PSEN Program in New York City has been the subject on an ongoing study by the Assembly Committee on Education and its Subcommittee on Remedial Education. This audit complements that study effort by findings for PSEN programs outside New York City that parallel those cited by the Committee for New York City.

Audit methods included review of available program information, analysis of data available from SED's program and fiscal information systems, interviews, surveys, file searches and sampling of individual programs student profiles within the districts selected for case study.

Chapter Summary

● PSEN has been distributed as operating aid instead of as categorical aid; this presents some problems for administrative control because the flow of funds is not adequately related to use of PSEN aid for its intended purposes.

● Legislative intent sets PSEN aid apart from other forms of operating aid by its planning and reporting requirements and an after-the-fact link between the funds and their intended use through deductions from aid in the following year.

● Legislative intent provides PSEN aid based on an estimate of need and it does not specify that all in need have to be served. PSEN aid must be used to serve pupils with remedial needs, rather than the general school population.

● Although legislative intent for PSEN aid has remained relatively stable, SED changes have led to an administratively defined PSEN program because SED decided to have the PSEN program support other administratively introduced mandates. These included the State minimum competency testing program, required remediation for those students performing unacceptably on tests used for this program (which includes the PEP's), and the unification of Title I/PSEN administration.

● Some changes in the PSEN program, while introduced to support increased educational performance, resulted in blurring PSEN programmatic accountability. To the extent that this has happened SED has not been in compliance with legislative intent for programmatic as well as fiscal accountability. The shift to prior approval also exceeds legislative intent.

● Outside of New York City PSEN and Title I programs served 18 percent of those enrolled in public schools in 1979-80 and provided $172.4 million in aid to school districts. In 1979-80, PSEN participants were primarily concentrated in village and large central school districts (55.8 percent) as were Title I participants (44 percent). The number of Title I participants in large cities exceeded their PSEN counterparts; this resulted from dual economic and educational disadvantagement targets of Title I funds while PSEN aid is based on educational need alone.

II PROGRAM ADMINISTRATION

During the study period SED administrative change has been implemented to achieve unified PSEN/Title I administration. The reasons for such change in SED and in school districts are reported in this chapter. Some of the impacts will be reviewed in this chapter; these include SED's development of rules, regulations and guidelines, program application review and program monitoring. Impacts on other areas including the SED role in district programmatic and financial reporting and in program evaluation will be reviewed in subsequent chapters.

SED Program Management

The changes in organization and in program rules, regulations and guidelines described in this section demonstrate that the administration of PSEN is complex and in the case of guidelines, subject to continuous change. In fact, an LCER request for a chart comparing and contrasting program changes, before and after unification, in eligible program students and eligible program costs resulted in two different charts being submitted by the Assistant Commissioner for General Education and Curricular Services. This demonstrates that problems with the program's administration prior to unification acknowledged by SED may still exist:

> We discovered in the review of all of our policy statements that much of what was interpreted as policy was "oral tradition" with no basis in the statute and/or regulation. Therefore, we have attempted to clean that up.[1]

Administrative Organization for the PSEN Program

Chart 1 shows the organization prior to unification. The Office of Elementary, Secondary and Continuing Education oversees the instructional services provided to students in the State's public and nonpublic schools; the administration of PSEN comes under its jurisdiction. In describing this early organizational approach, the Assistant Commissioner for General Education and Curricular Services reports:

> The State Opportunity Programs. . .is the former PSEN unit. As you can see, we had the State Opportunity Program and the Federal Opportunity Program [Title I] as separate entities serving the same type of children with the same type of program but with little or no internal coordination.[2]

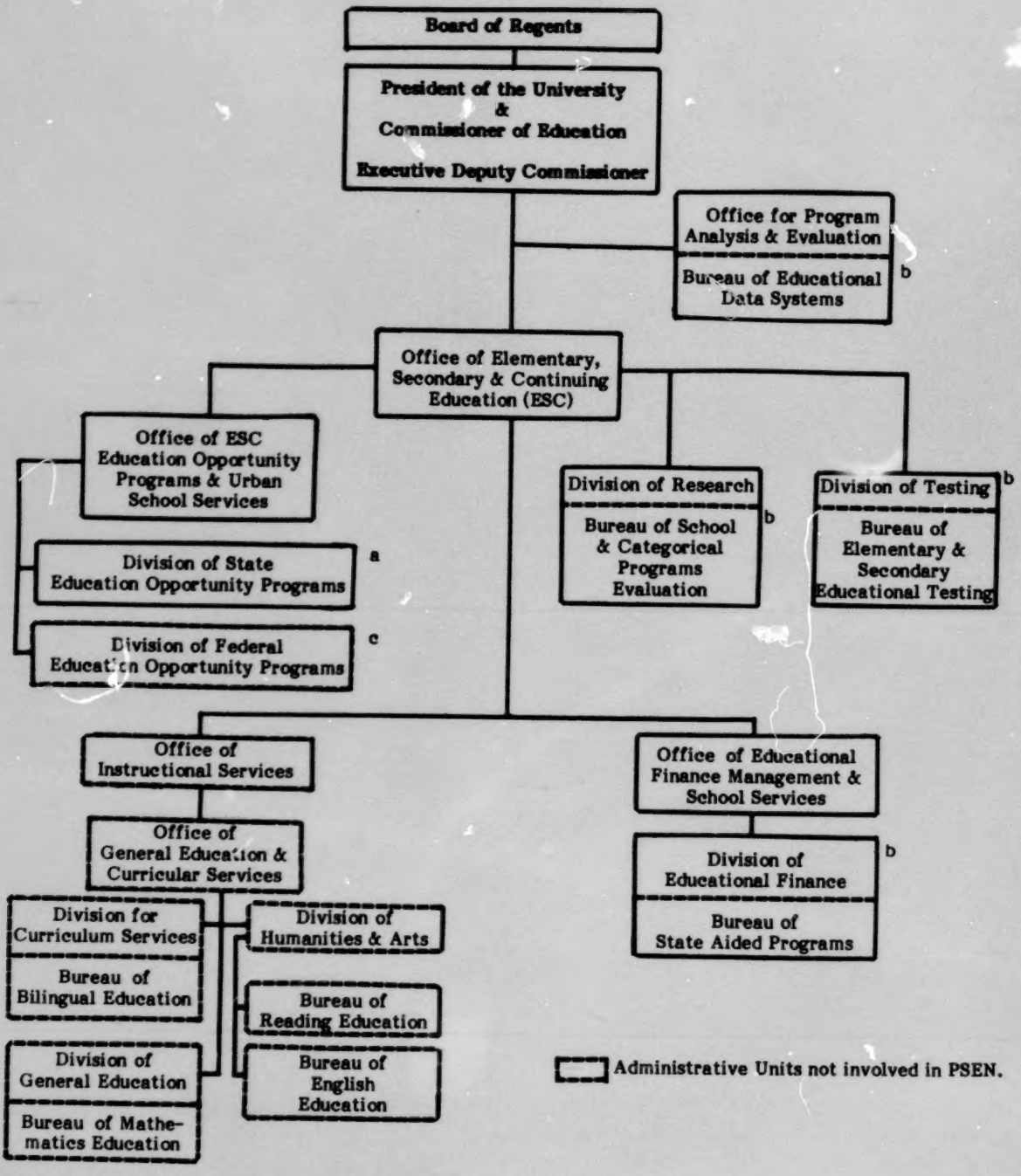
In addition to fragmentation between these units, there was limited involvement of the subject matter bureaus (i.e., reading education and mathematics education) in the PSEN program. These units had an ongoing responsibility with respect to Title I, but only became involved with PSEN upon request of the PSEN program staff.

The units concerned with educational finance and program evaluation had ongoing responsibilities for PSEN administration both before and after unification. (See Chapters III and IV for review of the roles of these units.)

The arrangement of organizational units after unification is depicted in Chart 2. The units responsible for PSEN and Title I were merged into the Division of Education

Chart 1

Administrative Organization for PSEN
Prior to Unification of PSEN/Title I Administration

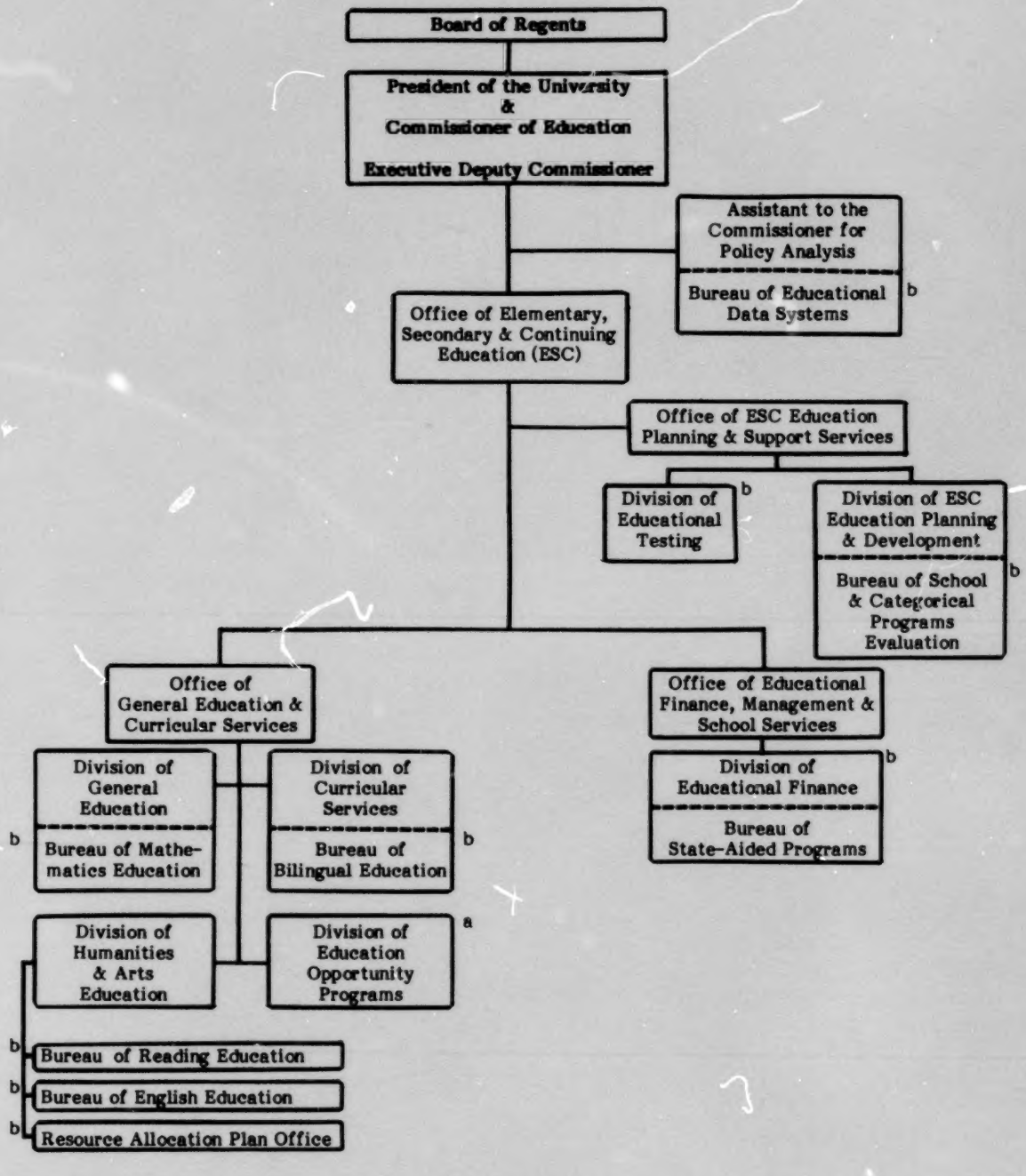

Board of Regents
President of the University & Commissioner of Education
Executive Deputy Commissioner
Office for Program Analysis & Evaluation
Bureau of Educational Data Systems
b
Office of Elementary, Secondary & Continuing Education (ESC)
Office of ESC Education Opportunity Programs & Urban School Services
Division of State Education Opportunity Programs
a
Division of Federal Education Opportunity Programs
c
Division of Research
Bureau of School & Categorical Programs Evaluation
b
Division of Testing
Bureau of Elementary & Secondary Educational Testing
b
Office of Instructional Services
Office of General Education & Curricular Services
Division for Curriculum Services
Bureau of Bilingual Education
Division of Humanities & Arts
Bureau of Reading Education
Division of General Education
Bureau of Mathematics Education
Bureau of English Education
Office of Educational Finance Management & School Services
Division of Educational Finance
Bureau of State Aided Programs
b
Administrative Units not involved in PSEN.

[a] Administrative Unit with primary responsibility for PSEN Administration.
[b] Administrative Unit involved in PSEN Administration.
[c] Administrative Unit with primary responsibility for Title I Administration.

Source: SED, Office of Administrative Services, 1977.

Chart 2

Administrative Organization for PSEN After Unification of PSEN/Title I Administration


Board of Regents
President of the University & Commissioner of Education
Executive Deputy Commissioner
Assistant to the Commissioner for Policy Analysis
Bureau of Educational Data Systems
b
Office of Elementary, Secondary & Continuing Education (ESC)
Office of ESC Education Planning & Support Services
Division of Educational Testing
b
Division of ESC Education Planning & Development
Bureau of School & Categorical Programs Evaluation
b
Office of General Education & Curricular Services
Office of Educational Finance, Management & School Services
Division of General Education
Bureau of Mathematics Education
b
Division of Curricular Services
Bureau of Bilingual Education
b
Division of Educational Finance
Bureau of State-Aided Programs
b
Division of Humanities & Arts Education
Division of Education Opportunity Programs
a
b Bureau of Reading Education
b Bureau of English Education
b Resource Allocation Plan Office

[a]Administrative Unit with primary responsibility for PSEN/Title I Administration.
[b]Administrative Unit involved in PSEN/Title I Administration.

Source: SED, Office of Administrative Services, 1981.

Opportunity Programs. This change allowed manpower to be allocated to PSEN from the larger staff previously devoted exclusively to Title I. Other changes (to be described later in the report) were to insure that a merged unit resulted in a unified approach to both programs.

In addition to merging these units, the reorganization placed the Division of Education Opportunity Programs into the same chain-of-command as the subject matter bureaus. Previously, the PSEN unit had staff status which removed it from accountability to the supervisor of the subject matter bureaus; after unification the merged entity became a line unit.

While coordination was needed, it did not have to result in the PSEN accountability problems reviewed in subsequent chapters. Moreover, as the next section will demonstrate, there were problems with PSEN administration beyond coordination problems that prompted unification.

PSEN Rules, Regulations and Guidelines

In a report explaining past practices, the need for change and the actions taken, the SED Deputy Commissioner for Elementary, Secondary and Continuing Education noted that there had been a lack of compilation of laws, rules, regulations, and guidelines relative to PSEN and Title I. Instead, "Memorandums were sent to school districts as rules, regulations, and statutes changed. Ten years of this practice led to confusion both in the field and in the Department."[3]

In fact, there were guidelines throughout this program's history that were based on "oral tradition," rather than legislative intent, or formally promulgated rules and regulations. For example, the shift to prior approval of PSEN programs (currently in effect) has no basis in legislative intent.

There have been formal rules and regulations adopted which have not been in keeping with legislative intent. For example, from adoption of its first set of rules in 1974, until their revision in late 1980, eligible program students were defined as: "pupils who have scored on their most recent acceptable test two grade levels or more below the norm for the grade level in which such pupils are enrolled in reading or mathematics. . . ."[4] An alternative offered to districts was to develop a local definition in lieu of this one and secure SED approval for it.[5] Nevertheless, two years below grade level was made the SED definition of target population to be served though this language does not appear in the PSEN enabling legislation. Instead, the term "below level four" on the sixth grade PEP tests in reading and mathematics was the definition adopted in the original law for purposes of aid calculation.[6] Below level four does not necessarily equate to two years below grade level.

The law speaks of Statewide tests--the existing law uses below level four on the third and sixth grade PEP tests in 1974 and 1975 as the basis for aid calculation.[7] Yet, most students served by PSEN were served on the basis of standardized tests, not Statewide tests. Standardized tests are developed by private testing companies and the ones used vary from district-to-district. Because the law speaks of statewide tests, not standardized tests, there was a need to equate them. Yet, only one standardized test in one year was compared to the statewide PEP test for that year. The result suggested that below level four on the statewide test might be closer to one year below grade level than to two years below grade level.[8] Despite this tentative finding no change in formal rules or regulations was made for years. In fact, SED denies that the purpose of this study

was to equate the two tests: ". . .we were interested primarily in mean scores, not scores at the extremes of the distribution, and we did not publish any tables of comparable scores that were derived as a by-product of our study."[9]

There have also been formally adopted rules and regulations that lacked standards needed to comply with them or enforce them. For example, throughout most of the program's history, SED's rules required that:

> Each school district shall spend the apportionment of State aid which is attributable to its pupils with special educational needs for educationally advantageous programs for such pupils, in addition to the regular program of instruction. . .[10]

LCER staff attempted to obtain SED explanation of what this requirement meant. In the sections on program application review and monitoring, it will be shown that some SED staff had trouble determining whether or not districts had complied with it. One school district stated that SED had informed it that: "PSEN programs need not be in addition to the regular program."[11] There is ample evidence of confusion regarding this guideline. For example, SED reports that action had to be taken to clarify "the often misunderstood concept that additional services did not necessarily have to be provided before or after a school day, but could be scheduled whenever it was advantageous to the individual pupil."[12] In the December 1980 revision of the rules and regulations, the requirement was eliminated. When asked what the impact of its elimination would be on eligible programs and eligible program costs, SED staff responded that it was too early to make such a determination.[13]

In March 1981, SED issued its ESEA Title I/PSEN Compiled Laws and Policies (CLPs)[14] in response to the confusion over guidelines and the recognized lack of consolidation of guidelines.[15] However, this was a compilation; it falls short of being a useful consolidation. The CLPs manual is 203 pages long and hardly represents simplification.

In an effort to secure a straightforward comparison of PSEN and Title I rules, regulations, guidelines and their administration before and after unification, LCER requested a chart that would specify:

--Program objectives,

--Eligibility criteria for first-time and continuing students,

--Eligible program services,

--Eligible instructional methods,

--Eligible student/teacher ratios,

--Eligible teaching manpower academic requirements, and

--Eligible program costs.

Such guidelines are among the most readily available information on programs; for the PSEN program, development of such information proved a hardship as evidenced by the initial SED response to this request. The revised edition is shown as Appendix B.

According to this information, pupil eligibility standards for PSEN and Title I (with the exception of attendance at a Title I eligible school) were identical before unification. The criteria reported are identical after the changes in the PSEN regulations and the

introduction of the State mandate for remediation. Further, the appendix indicates that all students eligible must be served by both PSEN and Title I, with the additional proviso that the latter program allows continuing eligibility until the child is likely to pass the next statewide test "and/or when evidence indicates an achievement level equal to their peers."

Except for SED's administrative changes reported in Appendix B, the information provided by SED indicates virtually no differences between PSEN and Title I in terms of: program objectives, first-time eligibility, eligible program services and costs. Appendix B demonstrates the extent to which unification has become the primary objective of PSEN administration. It reflects not only the results of unification, but also the effect of changes in PSEN rules and regulations following the December 1980 revision. For some of these revisions, such as the redefinition of the eligible target population, the change in rules and regulations formalized a policy already in effect. The change in PSEN eligibility was intended to provide remedial services to those mandated to obtain them after the introduction of the State minimum competency program. However, the mandate for remediation speaks only of those identified through statewide tests, while the revised PSEN eligibility guidelines speak of pupils:

> 1) in grades three through twelve who score below the Statewide reference point on any State mandated test, or who score below a point deemed by the commissioner to be equivalent to the Statewide reference point on any other acceptable test. . . .[16] (emphasis added)

LCER questioned what studies had been undertaken by SED to establish such equivalent points. It was reported that: ". . .the scores comparable to the State reference points have been established judgmentally."[17] Therefore, the new regulations offer no assurance that those served will include those intended to be served as specified in the legislation.

Program Application Review

Program application review has been the primary task of SED's Division of Education Opportunity Programs. Both this unit and others previously described devote more resources to this process than to monitoring since each school district's application is reviewed annually. By contrast, monitoring usually occurs every second or third year within a given district.

Prior to unification there were separate applications submitted for Title I and PSEN. Unification of program administration has resulted in a unified program application. In effect, SED's requirements included:

--A unified program application;

--Comprehensive planning for the coordination of Title I and PSEN; and

--Prior approval of PSEN programs.[18]

In 1980-81, the first year of complete implementation of these new requirements, each district received 43 pages of guidelines for preparing the combined plan/program application and the PSEN-10 Fiscal Budget and 38 pages of application forms. Moreover, SED calls for program description in addition to that furnished in the forms. This,

combined with the directive on some forms to reproduce them as needed, means a single school district's application can be more than 38 pages.

The burden placed on school districts by this level of reporting was not intended to be this severe each year. The 1980-81 document was to be used for the first year of a three-year approval process with updates in 1981-82 and 1982-83. The application update forms in use for 1981-82 were 25 pages long, but could be reduced to 18 pages if a district did not plan to change its approved 1980-81 program. However, in 1982-83 districts will be required to submit a revised and complete program application rather than an update.[19]

Despite the increased detail in the unified application, there has been a loss of PSEN identifiable program information (see Chapter III).

Although SED stresses coordinated planning of services as the most significant change associated with program application unification,[20] from the accountability perspective, prior approval of PSEN programs is most significant. There has been a shift to a prior approval treatment of PSEN funds similar to that found in categorical aid programs where ultimate program approval is not assured.

To determine what resulted from this approach before and after the shift to prior approval, LCER undertook a file search in SED offices, surveyed districts and requested that SED report the most significant issues raised during its application review and the resulting actions taken during 1978-79, 1979-80 and 1980-81. While prior approval was not formally underway in 1979-80, SED's review proceeded as if it were. Accordingly, the actions reported for two of the three years should be viewed in the context of what prior approval has thus far achieved in terms of program modification.

LCER's search of SED files found incomplete information on SED concerns and resulting actions. SED was to report the major issues raised and the resulting actions taken during program application review and program monitoring.

In 1979-80 and 1980-81 major program issues were raised in most of the 11 case study districts. Issues raised by SED staff during application review included:

--Whether services were being provided to all eligible students;

--Whether teachers providing reading remediation were certified;

--Whether a writing component was included in the remedial program;

--Whether there was coordination between the remedial program and the regular program of instruction;

--Whether there was compliance with class size guidelines;

--Whether remediation supplemented rather than supplanted the regular program of instruction as intended;

--Whether inclusion of a psychologist, guidance program and a school nurse funded from PSEN represented eligible program costs;

--Whether sufficient funds were budgeted for remediation to prevent underexpending and deductions from PSEN aid.

The issues raised by SED usually prompted district explanation rather than program modification. In most cases SED requested and received additional information from the district. For example, when a district was questioned about a lack of services to those in need, it responded that they would be served by a locally funded program. In most instances the additional information forwarded by the district was accepted. In a few instances, the SED unit raising the issue was unaware of what action resulted.

The coordination by the Division of Education Opportunity Programs is limited to conveying the questions and comments of the various SED units to the district. For example, districts received a form in 1979-80 stating that the project was approved, or was "not approvable at this time," or required submission of additional information. The form contained attachments relaying the comments and additional information requests of reviewers. In one district surveyed, five separate units requested additional information or made comments.[21] The district was instructed by the Division of Education Opportunity Programs to contact each unit directly if there were questions. If there were no questions, the district was instructed to submit 12 copies of its written responses. These were then routed to the various units once again.

This approach disperses responsibility within SED for approval of compensatory education programs so that LCER staff could not obtain an understanding of SED concerns and actions from a single office. This was also true of some units involved in review for there were instances where they could not provide information on results.

The lack of effectiveness of the emphasis on reviewing program applications, rather than on monitoring is demonstrated in the case of Newburgh. In reviewing its 1979-80 application SED raised questions about compliance with class size guidelines in remedial reading classes. Newburgh responded by submitting information to SED explaining that an additional teacher had been hired after the program application was filed and that absent students and dropouts kept student/teacher ratios within the guidelines.[22] Without ongoing monitoring, SED cannot determine the accuracy of such assurances.

SED reported to LCER that for all case study districts, its application review has resulted in "a completed application in compliance with both federal and state mandates."[23] However, this is not sufficient assurance that operating programs are in compliance. In only one case of 11 reported to LCER did application review prompt monitoring to follow-up on issues raised with a district's program.

Program Monitoring

Program monitoring, like program application review, has been executed for both Title I and PSEN in consolidated form by SED staff since 1979-80. Although there are no monitoring requirements for PSEN per se, Title I is expected to be monitored every three years by federal mandate and SED has set its own monitoring objective as every two years.

Exhibit I indicates monitoring activity for the LCER districts during 1978-79, 1979-80 and 1980-81. Fewer districts were monitored in 1978-79 than in subsequent years. LCER fieldwork in these districts revealed that there was usually less programmatic and fiscal accountability in 1978-79 than in later years. This is partially attributable to the fact that prior to unification less manpower was available to monitor PSEN programs. (See Chapter III for more on district accountability.)

Exhibit I

Extent of SED Monitoring
in LCER's Case Study Districts
(1978-79 through 1980-81)

School District	1978-79	1979-80	1980-81
Brentwood	No	Yes	Yes
Brighton	No	Yes	Yes
Highland	No	Yes	Yes
Newburgh	No	No	No
Northville	No	Yes	No
Nyack	Yes	No	No
Richfield Springs	No	No	No
Shenendehowa	Yes	No	Yes
Syracuse	No	Yes	Yes
West Hempstead	Yes	Yes	No
White Plains	No	Yes	Yes
Number Monitored	3	7	6

Source: Calculated by LCER staff from information furnished by SED's Division of Educational Opportunity Programs, August 12, 1981.

While the exhibit shows that SED monitoring coverage has improved since 1978-79, it should be recognized that program monitoring ranges from comprehensive program review by SED representatives of the diverse administrative units to the limited review undertaken by a single subject matter bureau. Furthermore, some SED visitations are at the request of school districts and provide technical assistance more than compliance monitoring. The likelihood that monitoring will be comprehensive is increased if the district has been designated a RAP district as in the cases of Syracuse and Highland.

Prior to development in June 1981 of the Handbook of Comprehensive Remedial Program Assessment,[25] there was no procedure manual for monitoring. Furthermore, the monitoring forms used by the Division of Education Opportunity Programs contain items that require more direction than has been provided. For example, the form used in 1979-80 asked the monitor to determine if Title I money was being used to supplant the regular program. As previously reported, SED's guidelines have not included directions for making this determination despite the Title I "supplement, not supplant" mandate and the PSEN "in addition to" mandate.

There also has been use of monitoring questions that do not follow from existing mandates with which programs need comply. For example, a former and the most recent monitoring form ask if there has been compliance with the objective to have 50 percent of PSEN monies spent in Title I eligible buildings. However, in a June 18, 1981 letter to LCER staff, SED's Assistant Commissioner for General Education and Curricular Services stated that the objective "does not apply to present operations. Our intent was to solicit data to implement a 50 percent standard if Congress agreed to provide incentive aid. However, Congress did not provide such aid. Therefore, the 50 percent standard was not

implemented. It is not related to the distribution of funds, and is not part of our monitoring procedures."[25]

SED's development of a handbook for program monitoring begins the filling of a major need--the establishment of standards for program application review and monitoring. However, there is need for further work as evidenced by SED's inability to respond to an LCER inquiry as to the types of eligible programs and costs resulting from elimination of the words "in addition to" in the SED rules and regulations governing PSEN: "It is premature to provide examples [of eligible programs and costs] because program changes which reflect this December 24, 1980 revision will become evident only with the program updates for 1982 currently being received and reviewed in the [SED] regional offices."[26]

In addition to development of the handbook and revised monitoring form, another improvement planned is for the Division of Education Opportunity Programs to set monitoring priorities for other SED units in the hope that this will result in more appropriate use of program monitoring manpower. Other changes include the requirement that: "Districts respond to monitoring reports indicating what corrective actions they intended to take."[27]

Significant issues were raised by SED staff during program monitoring including:

--Whether Title I funds were being used to supplement not supplant the regular academic program;

--Whether there was coordination between the regular school program and the compensatory education program;

--Whether class size conformed to guidelines;

--Whether school student records were complete and uniform allowing results to be gauged, and the remedial program to be documented;

--Whether compensatory education teachers were aware of their pupils' scores on statewide tests;

--Whether teaching aides were appropriately certified;

--Whether teachers paid solely from PSEN funds were serving only PSEN eligible students; and

--Whether PSEN funds were used to finance the regular school program.

These issues resulted from SED staff observations and on-site reviews and demonstrate the role monitoring can play in achieving district compliance with program mandates. However, as previously demonstrated in Exhibit I, monitoring activity is less pervasive than program application review activity. In some instances monitoring has not taken place during the three year period and in others it took place less frequently than intended.

The most frequently reported monitoring results for the case study districts involved district intent to comply rather than verification that compliance had been achieved. Moreover, the action taken most frequently by SED was to share its findings with the district. There was little evidence of SED follow-up beyond feedback to the districts to assure that intent to comply was translated into district action.

Control by prior approval may assure that the application is in compliance, but only monitoring can verify that programs operate as stated in the application. Comprehensible standards must be developed and applied to achieve program accountability. Otherwise, program monitoring impact will be limited.

The unification of Title I and PSEN has had an impact on program application review and on monitoring. This impact has adversely affected PSEN program accountability as will be demonstrated in Chapter III.

School District Management

One of the major purposes of unification was to change district management of PSEN and other compensatory education programs. In a letter to LCER, the Assistant Commissioner for General Education and Curricular Services noted that prior to unification, districts reflected SED's disorganization. There was duplication and overlap in the administration of separate PSEN and Title I programs and compensatory services were not tied to the regular academic curriculum.[28] While there was no mandate to consolidate services, the assumption was that districts would mirror SED's changes. LCER's survey of districts gives some indication of the nature of district management and the extent of change over the last three years.

District management structures ranged from simple to complex. Some districts, particularly the smaller-sized ones, had a single person responsible for both PSEN and Title I programs. In other districts, the management structure was more complex: the processes of application, instructional supervision and evaluation were assigned to separate management.

LCER attempted to determine whether the school district organizational approaches used for PSEN were unified with Title I and the regular school program. An attempt was also made to determine whether districts had reorganized since SED began promoting a unified approach or had remained unchanged. If unification is viewed as a coordinated approach to the management of PSEN, Title I and the regular instructional program, then nine of the 11 districts are organized in this manner (Brighton, Richfield Springs, White Plains, Highland, Northville, West Hempstead, Shenendehowa, Newburgh, and Syracuse). Of these nine, all but Brighton, White Plains, and Highland were organized in this manner prior to SED's unification. Therefore, districts employed a unified approach that usually predated SED's reorganization.

It must be stressed that unification in some districts was limited to a coordinated approach to grantsmanship and not to the delivery of PSEN/Title I services. In Brentwood and Nyack coordination meant only a unified application process to obtain funding and it was not oriented to effect a change in program results. In a letter to LCER, the Grants Coordinator for Nyack noted:

> heretofore the responsibility for coordination [of compensatory education] has not been clearly defined. Rather day to day program direction has been the responsibility of. . .Mathematics, Language Arts, ESL/Bilingual coordinators. My responsibility has dealt with the technical aspects of application and budget preparation.[29]

Unified/coordinated district organization does not necessarily translate into efficient district management or effective program results. Other important components of

district management such as the adequacy of management information systems for accountability will be considered elsewhere in the audit. (See Chapters III and IV).

Chapter Summary

● Unification resulted in a common approach to PSEN/Title I program administration.

● Problems with PSEN program administration go beyond the need for coordination and include confusion over guidelines, lack of enforceable standards, emphasis on program application review that yields little assurance of program compliance with legislative intent and guidelines, and a lack of emphasis on program monitoring. Program monitoring has more potential for assuring program compliance with legislative intent.

● District management was found to be unified in most districts surveyed. Usually, unification at the district level was in effect prior to SED's own unification. Sometimes unification at the district level was simply for the purpose of obtaining federal and State aid, and not for overseeing the coordinated use of PSEN/Title I programs.

III PROGRAM ACCOUNTABILITY

This chapter reviews the adequacy of SED and district program information to assure accountability.

In the case of Title I and PSEN programs, significant staff resources both at SED and in the district have been devoted to the collection of program application and evaluation information. Despite this, SED still lacks appropriate information to properly account for PSEN programs.

SED's Program Management Information

Several SED administrative units are involved in mandated school district reporting on PSEN and Title I programs. These include the Division of Education Opportunity Programs, the Information Center on Education and the Bureau of School and Categorical Programs Evaluation. LCER observed limited sharing of information among these units. For example, when LCER staff requested an unduplicated count of pupils served by PSEN programs (i.e., a headcount that avoided double counting pupils exposed to more than one PSEN program component) staff of the Division of Education Opportunity Programs and the Bureau of School and Categorical Program Evaluation reported that an unduplicated count did not exist. Through LCER's inquiries, SED staff of this latter unit learned at the same time as LCER staff that the Information Center for Education had obtained an unduplicated count. Therefore, the best available SED data on numbers of pupils participating in PSEN programs were collected but were not used by SED either in the management or evaluation of programs. To the extent that there was any use of numbers of actual program participants they were byproducts of the program evaluation system to be described in the next section. The numbers however, do not differentiate between Title I and PSEN pupils, and cannot be used to obtain a headcount of PSEN pupils.[1] The need for such basic program information is affirmed in the response by the Chief of the Bureau of School and Categorical Programs Evaluation to LCER's inquiry concerning this lack of coordination and apparent duplication of effort by two SED units: "Census-type counts of pupil participants are among the most basic elements in any system of process evaluation. Such counts are useful in program monitoring to establish a basis for needs assessment, resource allocation and program implementation."[2]

The response continues by assuring that the data produced on the numbers of program participants by the two separate units "are not unnecessarily duplicative in their reporting requirements."[3] However, it also reported that SED is working to eliminate the requirement that districts submit the number of program participants to both units.[4]

The numbers of program participants most readily available from the unit responsible for PSEN administration 1979-80 are shown in Table 3. The numbers derived from program applications have little utility because: they are estimates, and not actual numbers served; and they double count students served in two or three program components. Furthermore, for 1980-81, separate counts are no longer available for PSEN since PSEN and Title I numbers have been combined.

The estimated number of pupils to be served are among the few "hard data" points derived from the program application that have been computerized by SED. The primary use SED has made of these figures has been the computation of estimated per pupil costs to determine if the State aid allocation was being fully expended by the district. SED made this judgment on a cost per pupil ceiling it had maintained during much of the program's history (see Chapter IV).

Table 3

Number of Students in PSEN Programs
By Subject Matter and Public School
District Categories: 1979-80

School District Category	Reading		Mathematics		Writing		Billingual & ESL[a]		Total	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Large Cities[b]	18,158	10.9	7,211	7.9	385	1.2	2,411	30.7	28,165	9.4
Medium Size Cities	7,210	4.3	3,755	4.1	516	1.6	406	5.2	11,887	4.0
Small Size Cities	16,768	10.0	12,307	13.4	4,227	13.4	1,127	14.4	34,429	11.5
Village and Large Central School Districts	93,558	55.9	45,310	49.5	18,438	58.5	3,341	42.5	160,647	53.9
Large Rural Districts	22,612	13.5	15,716	17.2	5,322	16.9	565	7.2	44,215	14.8
Small Rural Districts	9,046	5.4	7,211	7.9	2,646	8.4	3	c	18,906	6.3
Total	167,352	100.0	91,510	100.0	31,534	100.0	7,853	100.0	298,249[d]	99.9
	56.1%		30.7%		10.6%		2.6%		100.0%	

[a]Includes pupils in a bilingual reading, mathematics and/or writing program and pupils in English as a second language programs.
[b]Excludes New York City.
[c]Less than 0.5 percent.
[d]Total shown is an estimate which double counts those receiving remediation in more than one subject.

Source: SED, Division of State Education Opportunity Programs, PSEN-1, 1979-80.

Districts reacted critically to the resources required to prepare program applications for SED. One intended impact of the unified program application was to reduce the reporting burden on districts. However, some districts still found SED's program application requirements burdensome.[5] The impact of program application review on the district primarily has been the submission of additional information rather than program modifications.

With the unification came a lumping of Title I and PSEN information in the program application and program monitoring forms and in the program evaluation reports. As a result, SED lacks a management information system for PSEN programmatic accountability.

The inadequacy of SED's program information to hold districts accountable for PSEN State aid deployment is demonstrated in the case of the available information to determine district PSEN need and whether those in need are being served.

The original estimate of district need as reflected in the means employed to calculate PSEN State aid was based on the 1971 and 1972 sixth grade PEP results. The estimation of district need employed in the State aid formula has been changed several times, most recently in 1978. District need is currently calculated on the basis of 1974 and 1975 third and sixth grade PEP results (see Appendix C).[6] As a recent SED study noted:

> The question of how accurately the 1974-75 PEP results determine district need is particularly important in light of the new Commissioner's regulations requiring remediation of all students scoring below Statewide Reference Points.[7]

The study points out that prior to 1979-80, the State did not require all pupils with special educational needs to be served; therefore districts were free to adjust the number served to match available resources by adopting a local definition of eligibility.[8] The local definition could be used either to reduce or to increase the number to be served. The actions by the Board of Regents to mandate remediation for those falling below the Statewide Reference Points on the third or sixth grade PEP tests or for those failing a State Competency Test or its equivalent were followed by the previously reported revisions in the PSEN regulations. These revisions enabled districts to use PSEN aid to serve all pupils for whom remediation was made mandatory. Accordingly, the SED study attempted to determine the adequacy of the PEP percentages used in the PSEN formula to estimate need. SED compared these percentages to those actually served in PSEN and Title I programs from 1976-77 to 1978-79 and concluded that more students were served than were estimated to be in need during that period.[9] The conclusions were based on calculations that included New York City. LCER updated this information for the State (outside New York City) and found that the estimate was good if the number served in both PSEN and Title I programs can be viewed as a reliable measure of need. If those served only in PSEN programs is a more accurate measure of need, then the use of the PEP percentages overestimates needs. Table 4 shows both measures in relation to the estimate of need. It appears that PSEN alone was serving just over half of those estimated to be in need, while PSEN and Title I combined were serving all of those in need.

However, these data are so flawed that this type of judgment cannot be made. First, take the measure of need; it is based on the formula contained in the law which does not reflect recent improvements in PEP scores. For example, if the PEP percentage for 1978-79 is taken into consideration, then instead of an estimated 343,799 students in need of compensatory education, only 262,074, would be identified (see Table 5).

Table 4

Proportion of Estimated Pupils With Special Educational Needs Served by PSEN Programs and by PSEN/Title I Programs Combined 1979-80

School District Category	Estimated Number of Pupils With Special Educational Needs[a]	Percent Served by PSEN Programs	Percent Served by PSEN/ Title I Programs Combined[b]
Large Cities[c]	49,861	32.2	80.0
Medium Size Cities	15,779	46.0	98.2
Small Size Cities	35,392	59.4	105.6
Village and Large Central School Districts	174,659	61.2	99.8
Large Rural Districts	47,039	58.6	107.5
Small Rural Districts	21,069	60.3	120.1
Total	343,799	55.7	99.7

[a] Average of 1974-75 and 1975-76 PEP percentage x 1978-79 average daily attendance.
[b] Total of 342,879 reported served includes 2,575 not served in schools (i.e., served in institutions).
[c] Excludes New York City.

Source: Calculated by LCER staff from information furnished by SED, Division of Educational Finance and SED, Center for Education Information.

Table 5

Alternative Definitions of Eligible PEP Populations by School District Category

School District Category	Population Employed in PSEN Formula[a]	More Recent PEP Population[b]	Difference
Large Cities[c]	49,861	35,549	14,312
Medium Size Cities	15,779	12,259	3,520
Small Size Cities	35,392	28,732	6,660
Village and Large Central School Districts	174,659	133,101	41,558
Large Rural Districts	47,039	35,656	11,383
Small Rural Districts	21,069	16,777	4,292
Total	343,799	262,074	81,725

[a] Average of 1974-75 and 1975-76 PEP percentage x 1978-79 average daily attendance.
[b] 1978-79 PEP percentage x 1978-79 average daily attendance.
[c] Excludes New York City.

Source: SED, Division of Educational Finance.

There are other problems with the estimate of need. The PEP percentage double counts those scoring below the Statewide Reference Points on both mathematics and reading while the percent served by PSEN programs alone is based on an unduplicated count of those served by PSEN regardless of whether they were served by more than one program component (i.e., those in reading and math were counted once, not twice). The PEP percentage does not include a count of those in need of special education because of writing deficiencies or the need for bilingual education. Yet, PSEN programs are expected to serve these groups, too. An estimate of those to be served because of poor performance on other tests included in the State Competency Testing Program is not included in the PEP percentage.

There also are problems with the figures used to calculate the percent of those served by PSEN programs and by PSEN/Title I programs combined. As noted in Table 4, the combined numbers include some students not served in schools. The combined numbers exclude those served in local remedial programs. The mandate to provide remediation for those in need can be met by local effort and by Title I or PSEN programs. Finally, the numbers reported are those served by PSEN and Title I programs, not necessarily those eligible to be served on the basis of poor performance on a statewide examination. As shall be demonstrated later in this chapter, those served in PSEN were frequently served not on the basis of performance on statewide examinations, but on standardized examinations with different ones in use from district to district. Furthermore, those served include continuing as well as first-time enrollees. For such students, it may be years since they scored below the Statewide Reference Point on the examination that provided the basis for serving them, or they may have been served as a result of a local definition of eligibility that was less restrictive than that specified in SED's rules and regulations. Finally, in the absence of an information system at SED, or of sufficient monitoring to assure that all those served are eligible, use of program participants as a measure of need must be questioned. SED program management information is deficient for assessing the need for PSEN services or their use.

SED's Program Evaluation Information

SED's program evaluation information for PSEN is the responsibility of the Bureau of School and Categorical Programs Evaluation. This unit is also responsible for maintaining evaluative information on other State and federal categorical programs including Title I. Since 1976-77, this unit has relied on a program student reporting system for evaluation of Title I, PSEN and some other programs. This system, known as the Local Education Agency Programs Annual Evaluation Report Form (LEAP) contains pre and posttest scores for approximately 600,000 program students.

These data are reported to SED by school districts on a student-by-student basis. This approach allows more flexibility in data analysis. Although SED was unable to furnish data on system costs,[10] it is usually more costly and time consuming to collect information in this way. Other SED information systems do not rely on individual student data files. For example, the Basic Education Data System (BEDS) provides information such as numbers of students enrolled, teachers employed and students served by particular programs and relies on summary information reported by districts. Similarly, the Higher Education Opportunity Program (HEOP), the equivalent State-funded program to PSEN for college students relies on evaluative summary data reported by participating colleges.

The type of evaluative information available from the LEAP system is demonstrated in the next section which reports on data analysis made available to the 11 districts surveyed by SED. Although the LEAP system contains information on all

elementary and secondary remedial students for whom pre and posttest scores are available, the system is deficient for evaluative purposes. There are several reasons for this conclusion:

> --The system has not included the program variable since 1979-80. There is no system provision for differentiating PSEN pupils from Title I pupils or from pupils in other federal and State programs for which pupil achievements are included in the data base;[11]
>
> --The system included only some data points of interest in evaluation of compensatory education programs. It excludes information on pupil program eligibility, pupil scores on statewide tests and measures of program outcome such as whether the pupil returned to regular student status or remained a program student, whether the student advanced to the next grade or repeated the same grade, whether the student graduated or dropped out;
>
> --The system has not served as a source of longitudinal data for even those few data points included. Only since 1979-80 has the system contained a prerequisite for reporting long-term impacts (i.e., comparable data formats);
>
> --The system has not been utilized by school districts because of SED's failure to provide data analysis to them prior to 1979-80. There was delayed reporting of 1979-80 data to them (of the 11 districts surveyed, none had received data for the 1979-80 year by May or June 1981).

SED reports an effort to improve the timeliness of 1980-81 data, but is not planning change in the content or format of data.[12] SED also maintains that the individual student data file (initiated by SED, rather than as a result of federal mandate) is preferred over self-reported group data for a variety of reasons but "most importantly [because], only individual student reporting enables longitudinal analyses and evaluations. . ."[13] However, as previously noted, the value of this system for longitudinal studies is limited by the exclusion of student outcome information and by the fact that comparable time series data can be secured for only 1979-80 and 1980-81. SED has noted: "There is increasing interest in the sustaining effects of compensatory education programs."[14] Yet, LEAP cannot fully respond to those concerns.

SED also responded negatively to LCER's inquiry about a sampling approach to individual student records for a variety of reasons including the belief that:

> The very process of comprehensive (non-sampled) evaluation focuses LEA's [Local Education Agency's] attention on the results of their programs; the awareness that "somebody up there cares to know about my programs and pupils" or that "someone may be watching" can add incentives at the classroom level. . .[15]

However, a sampling approach to individual student records could secure more complete and useful information for less cost than is currently available from LEAP. (Some of the information not now available from LEAP are reported for a sample of students in a subsequent section.)

School districts were required to devote much paperwork, manpower and time to fill out LEAP forms for SED. In exchange, they did not receive completed reports for any

year prior to 1979-80, and for 1979-80, they received them too late for use in designing or implementing 1980-81 programs.[16] Because of the delayed receipt of the LEAP reports, one district had to develop information that duplicated the LEAP data, but was more timely.[17]

Regional computer centers were used in processing LEAP data supplied by districts for SED use in 1979. These centers, located at the Boards of Cooperative Educational Services (BOCES), played a major role in data collection. In fact, one center in Onondaga County developed a more efficient form for data collection than SED's; the form was adopted by other BOCES. For 1980-81, in an effort to return LEAP reports to school districts in more timely fashion, the regional computer centers (rather than SED) are responsible for analyzing LEAP data and reporting the results to school districts.

Intended utilization of LEAP system results has been limited to SED and more recently, to districts. SED has not prepared reports for distribution to others concerned with the effectiveness of compensatory education programs, such as the State Legislature and the general public.

LCER questioned the elimination of the program variable that allowed PSEN program results to be differentiated from Title I program results because of the lack of PSEN program accountability this demonstrates. During the course of the audit, LCER staff was informed by SED staff that U. S. Department of Education staff monitoring SED's Title I efforts voiced similar concerns about Title I program accountability.[18] SED's Chief of the Bureau of School and Categorical Programs Evaluation replied to the LCER concern:

> Your interest in differentiating "PSEN results from Title I results" alludes to the vexing issues of attribution of effects and causality. We contend that differentiation of achievement results in a comprehensive, interrelated, and coordinated program of instruction is illusory and chimeric at best. The accounting for monies spent in educational programs is a different function from accountability of pupil performance. Financial reports and "audit trails" accomplish the former function; the LEAP reports in part perform the latter. Efforts to combine these two important functions to unambiguously attribute with any rigor or level of exactitude "x" effects to "y" dollars are not likely to be meaningful. We can only say, with defensibility, that a certain level of overall funding, in the aggregate, seems to be leading to these results, in the aggregate. Which specific dollars from which funding source are causing specific effects can only be speculated, given currently available data. This is especially so in view of the relatively small proportion of total school funding which derives from Title I or PSEN sources. Thus, while we can surmise that compensatory programs generally seem to be having substantive impact on pupil achievement, it would require a far more extensive reporting system to establish with satisfactory conclusiveness which pocketbook deserves the credit for which effects. The program variable [i.e., differentiating PSEN from Title I] was eliminated from the individual pupil level of reporting. . .in 1979-80 because it had been an unnecessary reporting burden and an unrealistic indicator, given the way instructional programs are structured at the pupil and classroom levels.[19]

This response by SED affirms the limited value of the LEAP information system as a PSEN evaluation tool. The fact that the system has limited utility cannot be dismissed

by SED, for its data elements were determined by that agency. For example, SED's rules and regulations for mandated remediation call for serving those below the Statewide Reference Point on one State test until they can perform satisfactorily on the next. The guideline for PSEN eligibility also is the Statewide Reference Point on a State mandated test or its equivalent. As presently constituted, the LEAP system does not have the basis for eligibility as an integral part. It cannot be used to determine why a program student was deemed eligible to be served, nor does it include grades on Statewide tests that would be useful to gauge eligibility and improvement. The argument that it was too burdensome to include the program variable allowing distinction of PSEN students is invalid given what was included. The argument that it was unnecessary to include this item because of the way programs are structured in school districts is also invalid. In its review of the case study districts, LCER staff found that district program organization usually allowed a distinction to be made between PSEN and Title I programs. Unification did not result in a total lumping of the two in school districts as in most SED program information sources.

In school districts, PSEN and Title I programs usually provided remedial services in different subjects, or in the same subject in different grades. In this way, they represented a coordinated program of services without the consolidation found in SED's information systems. This demonstrates that SED's emphasis on program coordination did not have to result in a loss of program accountability.

Legislative intent requires school districts to report on PSEN program effectiveness and SED's rules and regulations affirm this requirement. The use of the LEAP system since 1979-80 to fulfill this mandate is viewed as insufficient compliance with legislative intent.

The 1979-80 year was the first one in which districts received LEAP data summaries from SED. This was also the first year the program was unable to separate PSEN student achievement. This section demonstrates the types of information that could have been assembled for PSEN students, but are only available for a composite of students receiving remediation through federally or State aided compensatory education programs.

LCER requested from SED the results of the 1979-80 LEAP data for each of the 11 districts surveyed. SED was able to supply LCER with the results for all of the districts except Brentwood and Nyack. No explanation was given for why Brentwood's data were not available. Achievement data were missing for Nyack.

Using the data SED provided, LCER examined the number and proportion of students for which the sample of districts had both pretests and posttests (Table 6).

Overall there were results on both tests for 58.0 percent of the students in the reading programs and for 81.3 percent of the students in the mathematics programs, yielding a combined average of 64.7 percent.

The districts varied in the proportion of students who had taken both pretests and postests. Nearly all of the students in Richfield Springs (96.8 percent) and White Plains (94.5 percent) were included, while only 40.7 percent in Newburgh were tested twice.

All school districts do not use the same test in evaluating pupils. In fact a school district may use a different test for each grade level or it may switch tests each year. How can one compare the results of one test with another? Grade equivalents have been criticized because they are often misinterpreted. The units of the scale are not equal to each other. A year of growth represents much more learning at grade 4 than at grade 8.

Table 6

Proportion of Remedial Students in LCER's Survey of School Districts
Who Had Both Pretest and Posttest Scores
1979-80

School District*	Reading			Mathematics			Total		
	Number of Remedial Students With Both Tests	Total Number of Remedial Reading Students	Percent	Number of Remedial Students With Both Tests	Total Number of Remedial Math Students	Percent	Number of Remedial Students With Both Tests	Number of Math & Reading Remedial Students	Percent
Brighton	102	197	51.8	155	164	94.5	257	361	71.2
Newburgh	958	3,000	31.9	864	1,479	58.4	1,822	4,479	40.7
Northville	74	131	56.5	--	--	--	74	131	56.5
Richfield Springs	90	93	96.8	--	--	--	90	93	96.8
Shenendehowa	602	684	88.0	--	--	--	602	684	88.0
Syracuse	3,752	6,048	62.0	2,605	2,814	92.6	6,357	8,862	71.7
West Hempstead	211	255	82.7	29	38	76.3	240	293	81.9
White Plains	634	671	94.5	--	--	--	634	671	94.5
Total	6,423	11,079	58.0	3,653	4,495	81.3	10,076	15,574	64.7

*Achievement data are not available for Brentwood and Nyack; Highland used criterion referenced tests for which pretest and posttest design is not applicable.

Source: SED, Bureau of Schools and Categorical Programs Evaluation, ESEA Title I/PSEN Program Analysis and Reporting System, 1979-80.

One alternative is the use of percentiles which have the same range and distribution regardless of the standardized test used. However, an individual scoring at a given percentile on one test will not necessarily score at the same percentile on other tests because they may measure different traits.

Another alternative is the normal curve equivalent (NCE) which is divided into 100 equal intervals. A percentile score can be converted into NCE's. At the extremes of the curve NCE's move more rapidly than percentiles, while in the middle of the curve, the reverse is true. Using NCE's it is possible to compare the pretest score(s) of a student (or group of students) with his (their) posttest results.

Table 7 presents the average gain in NCE's for reading and mathematics by grade level for school districts in which SED was able to furnish information. A positive score indicates that, on average, in a given grade, the students in a district improved their reading and/or mathematics scores. A negative number indicates the reverse. The larger the number, the greater the change between pretests and posttests. Comparisons among school districts and, in some cases, even within a given district are only possible if one assumes that the tests given are identical or have been equated so that a gain of one NCE on Test A equals a gain of one NCE on Test B. In fact the tests used frequently differ and within SED, equivalent points have been established judgmentally based upon the reasoning that:

> There is a certain similarity in content among achievement tests in reading and mathematics at any given grade level, and the distribution of scores obtained by New York State pupils parallels the distribution of scores in national norms samples.[20]

Note that these are district averages and tell us nothing about an individual building or class. (SED produces tables which enable the district to review the performance of students by building and, within each building, by grade.)

School District Program Information

This study has demonstrated that although SED has required much program information to be reported by school districts, there are major gaps in program accountability. SED's position is that these gaps are filled at the school district level. For example, in response to an LCER question on the lack of feedback of data from the LEAP system to school districts, SED discounted its importance because of the system's limited program information:

> It should be added that LEAP-reported information is only a small part of the total data set school districts have available from their comprehensive testing program which includes Regents competency tests, "PEP" tests, Regents examinations, and districtwide testing programs. Most districts analyze and apply the results of these assessments to carry out their local responsibilities for program planning, management, and evaluation. The Department expects that districts will use all available information for improvement in all areas of instructional programs; the Department provides technical assistance for this purpose.[21]

This portion of the study considers the extent to which SED information gaps can be filled, or have been filled with school district management information. At the

Table 7

Average Posttest-Pretest Gain in Normal Curve Equivalents for Reading and Mathematics for LCER's District Survey by Grade Level 1979-80

	Reading by Grade											
School District	1	2	3	4	5	6	7	8	9	10	11	12
Brighton	--	25	18	9	12	10	5	7	4	9	--	--
Newburgh	--	13	10	3	5	3	1	--	--	--	--	--
Northville	8	5	17	15	17	7	11	12	4	--	--	--
Richfield Springs	--	--	9	8	--	2	1	-1	--	--	--	--
Shenendehowa	32	28	15	24	18	18	15	11	9	5	13	-14
Syracuse	20	4	11	8	3	3	6	5	4	5	5	8
West Hempstead	20	18	9	13	10	1	7	3	-2	4	-3	-11
White Plains	--	11	10	8	6	12	10	11	--	--	--	--

	Mathematics by Grade											
School District	1	2	3	4	5	6	7	8	9	10	11	12
Brighton	--	33	17	11	19	9	14	15	6	13	--	--
Highland	--	--	--	--	--	--	--	--	9	13	--	--
Newburgh	--	2	7	6	4	7	2	1	--	--	--	--
Syracuse	15	8	23	13	-5	12	9	5	4	2	3	--
West Hempstead	--	--	--	18	17	20	--	--	--	--	--	--

Source: SED, Bureau of Schools and Categorical Programs Evaluation, ESEA Title I/PSEN Program Analyses and Reporting System, 1979-80.

beginning, LCER disputes the implicit assumption made by SED with respect to district program information. The assumption is that districts will develop information for local use providing more adequate accountability for PSEN than that required for reports to the State. This can occur, but it is not likely to result as demonstrated by Brentwood's response to LCER on whether information could be furnished on the actual, rather than the estimated number of students served:

> The Target Population is identified each year by the California Achievement Test. This list of eligible students changes when school opens and then throughout the year. It requires a great amount of clerical work to keep it up to date even in only one building. From past experience it has been noted that the total numbers of students actually served during the year don't vary too much from the number originally identified as eligible. At the end of the year the program teachers in respective buildings identify the past year's participants and their contact hours. This information is sent directly to the Data Processing Center for compiling the LEAP report. This report is very involved and time consuming for the limited staff the District maintains in the Center. No District reports for local use have ever been generated because of the over burden on the Data Processing Staff. Therefore, the Central Office has never had a clear picture of the actual numbers served, the difference between those identified by the CAT and those actually served or which participants have been served for more than 1, 2, or 3 years. This information could most likely be obtained from the individual school buildings but at great clerical cost.[22]

Responses obtained for other districts studied by LCER indicated that the lack of management information was the typical case, not the exception.

Aggregate District Information

The number of participants served is perhaps the key item of information needed for monitoring. Since eligibility criteria differ for first-time and continuing participation, it is important to differentiate between the two. LCER asked districts to furnish these data for 1978-79 through 1980-81. As in the case of Brentwood, other districts either had difficulty providing data on actual participants or could not differentiate between first-time and continuing participants. This finding caused LCER to question the reliability of the unduplicated PSEN and Title I participant counts presented elsewhere in this audit; these counts are the only data available at SED to assess the extent to which districts are meeting estimated need and to determine the unit costs of PSEN programs (see Chapter IV). A comparison of SED's unduplicated PSEN counts and those reported to LCER is shown in Table 8. SED's unduplicated count does not include such supporting information as whether students were first time or continuing enrollees and the basis of eligibility for students served. LCER requested such information and found that it was usually unavailable. In those instances where it could be provided, it required special tabulations of data. One school district attributed this loss of accountability for PSEN to unification of programs:

> Due to our comprehensive remediation program incorporating Title I, PSEN, and locally funded programs, it is extremely difficult, if not impossible, to determine whether or not the PSEN students are first time enrollees or continued eligible students.[23]

Table 8

Comparison of Number of
PSEN Participants Reported
to SED and to LCER
1979-80

School District	PSEN Participants SED	PSEN Participants LCER	Percent Difference
Brentwood	1,115	4,148	272.0
Brighton	116	106	-8.6
Highland	228	185	-18.9
Newburgh	2,041	2,041	0.0
Northville	58	45	-22.4
Nyack	160	462	188.8
Richfield Springs	163	153	-6.1
Shenendehowa	616	606	-1.6
Syracuse	1,925	1,500	-22.1
West Hempstead	188	174	-7.4
White Plains	286	292	2.1

Source: SED, Categorically aided program participants and LCER, district survey.

Some school districts also could not furnish lists of names of those served for LCER sampling--several districts could not provide such lists at the time of LCER fieldwork, and others offered lists that included both PSEN and Title I students. One district offered a list that included PSEN students with local developmental students and informed LCER staff that the two should be differentiated by pretest results (i.e., if ineligible for PSEN, the student was a local developmental one).

The problems in securing reliable program information from school districts stem from the fact that information at the district level usually is not organized as a management information system for use beyond the compensatory education teacher. Most of the information on target population served, program exposure and results requested by LCER staff had to be specially tabulated by district staff. Nyack reported to LCER staff that:

> this exercise and audit have pointed up many deficiencies in our record-keeping, with subsequent accountability losses. As a direct result of this audit, we have taken immediate steps to overhaul our record-keeping process.[24]

Locally prepared reports on PSEN were even scarcer than management information systems since most districts do not develop districtwide evaluations of the PSEN program. Instead, some rely on trends shown on local standardized tests which include the entire school population without separation of PSEN results. Not one of the 11 districts was found to have completed an evaluation which extends beyond the scope of the LEAP evaluation system previously critiqued. As a result, PSEN program impact has not been

evaluated in relation to the long-term objectives of PSEN. One school district, Newburgh, reports that such a study is nearing completion, but it excludes the PSEN program entirely.

Individual Student District Information

The availability of program information on individual students was examined by sampling a small number of student records (30 students were selected in each district representing ten for each of the three years audited).

For each student LCER requested information concerning:

--Year of first eligibility;

--Basis of eligibility;

--Pretest results;

--PSEN program exposure;

--Posttest results;

--Program student outcome (i.e., graduated, promoted, continued in program, etc.).

This information is required in a comprehensive program management and evaluation system. This means that there is limited usefulness in having only some of this information for an individual student. For example, posttest results tell little without pretest results and whether that student was eligible to be served and was served. Similarly, what happened to the student must be known if the program's objectives go beyond posttest results. In the revised SED rules and regulations, those objectives are stated in a manner that concerns more than a single year of a pupil's academic performance. The rule mandating remediation states that:

> Pupils who score below the designated statewide reference point in the third-grade pupil evaluation test shall be provided appropriate remedial instruction designed to enable them to score above the statewide reference point on the sixth-grade pupil evaluation program test. Pupils who score below the designated statewide reference point on the sixth-grade pupil evaluation program test shall be provided appropriate remedial instruction designed to enable them to score above the statewide reference point on the preliminary competency tests and/or pass the Regents competency test in mathematics.[25]

This prompted a change in SED rules and regulations to allow PSEN students to continue in the program for longer periods of time:

> Pupils with special educational needs may, at the local school district's discretion, remain eligible for educationally advantageous programs until they obtain scores in the fifth stanine on a standardized test or obtain a comparable score on any other acceptable test.[26]

Although these changes in rules are relatively recent (the PSEN revisions were effective in December 1980), the PSEN guidelines have always allowed continuing remediation for pupils not demonstrating sufficient improvement. Yet, no district information system was directed at longitudinal results. With respect to the management and

evaluation information previously identified, the number of students for whom complete information was reported to LCER represented 28 percent, or 91 of the 330 sampled. Of the 11 school districts surveyed, only three--Northville, Shenendehowa and Syracuse--were able to provide complete program information on at least 40 percent of LCER sampled program students. Incomplete program information from other districts was because of missing information on eligibility or on pretest results.

The tables that follow show some of the many types of program accountability information not available from SED and also not routinely available from districts. Table 9 shows the basis of initial eligibility used by the districts. It can be seen that statewide tests seldom serve as the basis of eligibility for students that were served. For 60 percent of the LCER students sampled, a standardized test was used. This shows the importance of equating statewide test results with standardized test results. As previously reported, the only existing effort by SED to equate the two tests shows that below level four on the PEP tests does not necessarily mean two years or more below grade level (i.e., the eligibility criteria in SED's rules and regulations throughout most of the program's history). This table shows that most frequently, students were eligible based on scoring at a point interpreted as two years below grade level on a standardized test. Since it is performance on statewide tests, and not the score on standardized tests that form the basis of SED's recent mandate for remediation, there is a need to equate the two tests. Past failure to do so may have resulted in students not being served that should have been, or vice versa.

Table 9

Basis of Initial Eligibility for PSEN

School District	Statewide Tests			Other Standardized Test	Evaluation/ Referral[c]	Unknown
	PEP	PCT[a]	RCT[b]			
Brentwood	--	--	--	25	--	--
Brighton	2	--	--	23	--	1
Highland	11	3	3	7	6	--
Newburgh	--	--	--	3	9	18
Northville	--	--	1	29	--	--
Nyack	--	--	--	12	12	5
Richfield Springs	7	7	--	10	5	--
Shenendehowa	4	--	--	20	5	--
Syracuse	--	--	--	30	--	--
West Hempstead	2	3	1	9	15	--
White Plains	--	--	--	24	6	--
Total	26	13	5	192	58	24

[a] Preliminary Competency Tests.
[b] Regents Competency Tests.
[c] Includes teacher or guidance evaluation and referrals from former schools.

Source: LCER Individual Student Data Sheets.

The eligibility basis is not part of SED's LEAP information system. While districts were able to furnish data on tests used to determine eligibility for students sampled as shown in Table 9, they were less able to supply the raw test scores, percentiles and NCE's that confirmed that students served were eligible.

Table 10 shows the number of students sampled exposed to a PSEN program of reading remediation, to one in mathematics, or to one in writing. The table shows that PSEN program exposure usually means reading remediation. It also demonstrates the extent to which PSEN pupils were served by more than a single PSEN program component. This allows comparison of duplicated to unduplicated counts of students for the sample. This relationship is not shown in program information on actual participants available from SED despite its implications for determining the extent of remedial needs of those served or the actual unit costs required to serve different program participants (see Chapter IV for unit costs based upon SED's unduplicated count).

The table also shows the extent of PSEN student participation in other federally or locally funded remedial programs. Thirty percent of the students sampled by LCER were also served by Title I and/or locally funded remedial programs.

The academic outcome is shown in Table 11 for students after the last year served. This type of information is not reported to SED and it is not included in local evaluations of the program. While it is recognized that other factors contribute to such academic outcomes, it is important to know what happened to students served.

Table 10

Number Served by PSEN Programs in Last Year Served

School District	PSEN Program Component					Other Remedial Programs[b]
	Reading	Math	Writing	Multi-Program[a]	Total	
Brentwood	11	6	--	8	25	18
Brighton	26	--	--	--	26	5
Highland	23	3	3	1	30	--
Newburgh	14	5	1	10	30	12
Northville	14	--	16	--	30	18
Nyack	29	--	--	--	29	11
Richfield Springs	15	3	9	2	29	4
Shenendehowa	29	--	--	--	29	5
Syracuse	24	4	--	2	30	22
West Hempstead	30	--	--	--	30	--
White Plains	30[c]	--	--	--	30	3
Total	245	21	29	23	318[d]	98

[a]More than one PSEN-funded component (i.e., reading and mathematics).
[b]Besides PSEN, the child is involved in another-funded remedial program (local or federal).
[c]For 28 of the 30 students participation was in a combined program of reading and writing.
[d]Districts with less than 30 students had pupils who were not served by PSEN programs, but were identified on sampling lists as program students.

Source: LCER Individual Student Data Sheet.

Table 11

Educational Outcomes for PSEN Program Participants
Following Last Completed Year in Program

School District	Advanced to Next Grade and:			Kept in Same Grade and:		Educational Outcome Unknown		
	Returned to Regular Student Status[a]	Continued in Remedial Program[b]	Program Status Unknown	Continued in Remedial Program[b]	Program Status Unknown	Departed District or School	Inadequate or Missing Information	Other[c]
Brentwood	13	5	1	--	--	5	1	--
Brighton	10	7	5	--	--	3	--	1
Highland	9	16	--	1	--	2	1	1
Newburgh	6	6	--	--	--	3	14	1
Northville	16	5	--	3	--	4	--	2
Nyack	7	15	2	--	1	2	1	1
Richfield Springs	18	7	3	--	--	1	--	--
Shenendehowa	8	14	--	--	--	6	--	1
Syracuse	7	8	--	8	--	7	--	--
West Hempstead	10	16	--	--	--	4	--	--
White Plains	8	11	--	2	--	5	1	3
Total	112	110	11	14	1	42	18	10

[a]Includes graduates (five of the 112 reported).
[b]Includes continuation in Title I and/or local remedial program as well as in PSEN Program.
[c]Includes those transferred to related programs such as learning disabled, special education, etc.

Source: LCER Individual Student Data Sheets.

Chapter Summary

SED's Program Management Information

- Limited sharing and/or awareness of program information was evident among the SED units involved in the PSEN program.

- Despite burdensome district reporting requirements invoked by SED, it lacks sufficient information to account for PSEN programs--a result of lumping Title I and PSEN data.

- Available SED data were deficient for basic management purposes such as estimating PSEN program need and use by those eligible for the program.

SED's Program Evaluation Information

- The SED program evaluation information system was deficient. In part this results from lumping results for PSEN students with those for Title I pupils. Since both legislative intent and SED's rules and regulations require PSEN effectiveness reporting, use of a program evaluation information system which lumps PSEN with Title I must be viewed as noncompliance or insufficient compliance with intent.

- SED program evaluation information was not reported to districts prior to 1979-80. In 1979-80, SED information was made available too late to be used in district program planning efforts. The availability of usable SED program evaluation information varied widely among the 11 districts surveyed and resulted from SED and district reporting problems.

School District Program Information

- District information within the 11 school districts surveyed was found deficient for program accountability and is largely attributable to inadequacies in SED's guidelines for district reporting.

- Of the 11 districts surveyed, only Northville, Shenendehowa and Syracuse were able to provide complete program information on at least 40 percent of the PSEN program students sampled by LCER. Even when information was available, it was usually not maintained as part of a management information system in the district and was made available through special tabulations.

- Districts were not always able to document eligibility for those students sampled because of incomplete information. In some districts, separate lists of pupils served by PSEN programs could not be obtained.

- In its survey of 11 sample districts, LCER collected seemingly essential program accountability information which SED has not required of school districts. This included information on program exposure and educational outcomes for those served by the PSEN program.

IV FISCAL ACCOUNTABILITY

SED distributes PSEN State aid to school districts. The method of calculating the amount of State aid each district receives is specified in Section 3602 of the Education Law. (See Appendix C.) SED is also responsible for determining that PSEN State aid is used for its intended purpose. The same section of law mandates that: "A district which spends any part of its total annual apportionment attributable to such pupils in an unauthorized manner in the base year shall have its current year apportionment reduced by the amount of such unauthorized expenditures in the base year." Section 3602 also requires annual district reporting including: "a statement describing the expenditure of the preceding year's apportionment for such pupils. . ." The section also specifies that regulations of the Commissioner of Education shall include such reporting requirements. This chapter reviews SED and school district compliance with these provisions of program intent.

SED Financial Information

The SED financial information available for each district includes the amount of PSEN aid received and expenditures reported under "Service for Pupils With Special Needs."[1]

The relationship between the State aid received and expenditures is shown in Table 12. The expenditures reported exceed the amount of State aid received in 1978-79 and 1979-80 for every type of district. One of the reasons for this disparity is that the annual financial report form employed by SED for school district expenditure reporting lumps expenditures from State aid payments with those from local revenues. Because of this aggregation, the report's distribution of expenditures into such categories as instructional salaries, noninstructional salaries, equipment, contractual, supplies and materials, tuition and textbooks cannot be taken as a reliable accounting of what use was made solely of State aid payments.

The categories of expenditure listed are used by SED to report on numerous education programs. Another form, the PSEN 10 was developed just to provide budgeting and expenditure reporting for PSEN. This form asks for budget and expenditure detail tailored to fiscal accountability requirements for PSEN. However, the PSEN 10 form only has been used for budgeting, not for expenditure reporting. This is so despite the fact that the form indicates that it also was intended for expenditure reporting, and SED's directions that call for its submission as an expenditure report at the close of the school year. As a result, there has not been compliance with the legislative intent to obtain "a statement describing the expenditure of the preceding year's apportionment for such pupils."

SED does not view this as a significant problem because: (1) the program staff's program application review and monitoring determine whether monies are being used for eligible program costs so there is no need to rely on expenditure reporting for this purpose; and (2) the State aid is viewed by SED as the equivalent of expenditure (for reasons to be set forth in the following section).

Although the financial reports lump spending from State and local sources, they do not provide a complete and comparable picture of total expenditures for compensatory education programs. The federal share available through Title I is identifiable only as a revenue and not as an expenditure (during a single fiscal year) because there is no single

Table 12

PSEN General Fund Expenditures and PSEN Aid
By Public School District Category 1978-79 and 1979-80

School District Category	1978-79 General Fund Expenditures	1978-79 Aid Paid	1978-79 Percent of Expenditures/Aid	1979-80 General Fund Expenditures	1979-80 Aid Paid	1979-80 Percent of Expenditures/Aid
Large Cities*	$ 12,530,016	$ 9,852,042	127.2	$ 11,049,372	$10,156,170	108.8
Medium Size Cities	4,586,711	3,224,033	142.3	4,759,082	3,185,551	149.4
Small Size Cities	10,809,565	7,716,783	140.1	11,[illegible]48,478	7,753,990	143.8
Village and Large Central School Districts	67,012,981	36,975,326	181.2	7[illegible],296,576	36,624,511	197.4
Large Rural Districts	16,594,524	11,339,006	146.3	17,611,283	11,409,623	154.4
Small Rural Districts	6,566,957	4,627,227	141.9	6,861,903	4,665,880	147.1
Total	$118,100,754	$73,734,417	160.2	$123,726,694	$73,795,725	167.7

*Excludes New York City.

Source: Calculated by LCER staff from information furnished by SED's Division of Educational Finance.

account in the district financial report for Title I expenditures. As to the local expenditures lumped with those from PSEN State aid, SED's study shows them to be an incomplete accounting of local compensatory education effort.[2] A subsequent section of this chapter will report on whether school districts surveyed by LCER were able to provide adequate fiscal data concerning expenditures from PSEN State aid payments.

State law requires that expenditures made for PSEN must at least equal the aid generated for PSEN in the same year.[3] An expenditure check is made by comparing the amounts reported in the district's A-2270 account code in its Annual Financial Report (ST-3) with the aid generated for PSEN for the same year. Districts are given a five percent overhead allowance. In other words, if reported expenditures are less than 95 percent of the aid attributable, the difference is deducted from general aid payments the following year.[4] (See Appendix C for more detail.) Table 13 presents the amounts of PSEN deductions made by SED's Division of Educational Finance. Deductions made are based on the prior year's expenditures. Deductions have ranged from $267,473 in 1976-77 to $10,331 in 1980-81. In relation to PSEN State aid, deductions have been minimal in each year reported.

Table 13

SED's Deductions of PSEN Aid
1976-77 - 1980-81

Year	Amount of Deduction	Total PSEN Aid Paid[b]	Percent of Aid Deducted	Number of Districts From Which Aid Was Deducted
1976-77	$267,473[a]	$ 72,200,000	.37	22
1977-78	17,137	83,700,000	.02	6
1978-79	197,714	73,700,000	.27	24
1979-80	33,624	73,800,000	.05	9
1980-81	10,331	75,900,000	.01	6
Total	$526,279	$379,300,000	.14	67

[a]Includes $174,155 in deductions levied against six districts as a result of program monitoring reviews. All other deductions were for failure to document expenditures equal to 95 percent of PSEN aid received.
[b]Rounded to hundreds of thousands.

Source: SED, Division of Educational Finance.

In addition to deductions for failure to document expenditures equal to at least 95 percent of PSEN aid received, districts may lose money as a result of program monitoring or evaluation reviews. Such deductions were only made in 1976-77 (for the 1975-76 operating year) against six districts and totaled $174,155.[5] The basic point to note, however, is how rarely SED has made deductions. Over the 1975-76 to 1980-81 period, deductions averaged .14 percent--less than $1 for every $700 paid to the districts during this time.

The combining of State and local funds in expenditure reporting also means that it is easier for districts to reach the requirement to account for 95 percent of PSEN expenditures. It is conceivable that there were districts which could not account for the required proportion of their PSEN funds but because they had made local expenditures in the compensatory education area they spent the required amount of funds. The fact that few districts have had funds deducted for either their inappropriate use or for the underreporting of expenditures results from:

--The difficulty in determining eligible program services;

--The limited program monitoring; and

--The emphasis SED has placed on assuring that State aid received would not be lost because of underreporting expenditures.

An example of this last point is SED's comments to school districts indicating that the target population served could be expanded to achieve an acceptable per pupil cost and yet consume available State aid by admitting "pupils into the program whose grade discrepancy is less than two years."[6]

LCER calculated the actual per student aid figures for 1978-79 and 1979-80 (see Table 14). Per pupil PSEN aid amounted to $351 in 1978-79 and to $385 in 1979-80. Per pupil expenditures were greatest in the large cities and least in the village and large central school districts. Because aggregate PSEN aid did not increase in these two years, the ten percent increase in per student aid was the result of the smaller number of students participating in the program in 1979-80.

Table 14

PSEN Aid Received Per Pupil
By Public School Category
1978-79 and 1979-80

School District Category	PSEN Aid Per Pupil 1978-79	1979-80
Large Cities*	$479	$633
Medium Size Cities	317	439
Small Cities	370	369
Village and Large Central School Districts	320	343
Large Rural School Districts	372	414
Small Rural School Districts	376	367
Total	$351	$385

*Excludes New York City.

Source: Calculated by LCER staff from information furnished by SED's Division of Educational Finance.

These figures indicate that, for 1978-79 in large cities and for 1979-80 in other types of school districts, the recommended maximum per pupil figure of $400 was exceeded. However, these costs are based on actual expenditures reported and actual pupils served; in its review of whether unit costs were in compliance with the per pupil limit SED used proposed expenditures and estimated pupils to be served. Moreover, SED had stopped using a per pupil expenditure ceiling as a control tool during 1979 to allow districts more flexibility.

School District Financial Information

The 11 case study districts were asked to supply detailed financial information on their PSEN programs. In nearly all cases, the districts were unable to provide a better breakdown of expenditures than those reported on the ST-3. The districts usually provided LCER with a total PSEN expenditure which was less than that reported on the ST-3, but more than the PSEN aid they had been paid. Neither the districts nor SED could determine where PSEN funds had been spent. The relationship of district expenditures to State aid received is shown in Table 15.

LCER is not the only organization to note this problem. A staff study conducted by SED personnel for the New York State Task Force on Equity and Excellence in Education came to the same conclusions.

That study noted that there were two factors which made it difficult to accurately determine the total cost of special pupil needs programs. First, the ST-3 form does not provide complete data on the costs of such programs.

Table 15

Comparison of PSEN Aid Paid
to District Expenditures
Reported in LCER's Survey
1979-80

School District	PSEN Aid Paid	District Expenditures Reported	Expenditures Reported to Aid Paid
Brentwood	$1,089,003	$1,474,780	135.4%
Brighton	34,863	39,136	112.3
Highland	85,482	93,694	109.6
Newburgh	600,067	899,548	149.9
Northville	22,368	40,888	182.8
Nyack	82,485	96,196	116.6
Richfield Springs	35,104	47,761	136.1
Shenendehowa	303,122	397,249	131.1
Syracuse	1,230,121	1,215,217	98.8
West Hempstead	25,567	53,319	208.5
White Plains	138,643	214,919	155.0

Source: SED, Division of Educational Finance and LCER District Survey.

> Since districts are only required to justify the expenditures of State aid for PSEN, it has never been worth their time or effort to report their actual total expenditures for PSEN programs. It was difficult to identify total cost for special pupil needs programs because the present State accounting system does not lend itself to tracking cost this way. Another basic problem was program definitions, which are difficult to resolve in any accounting system but which are particularly difficult for Special Pupil Needs Programs.[7]

The second factor was the desire of the districts to avoid red tape and not report expenditures which might be subject to SED regulations. "For example, a district might have difficulty justifying programs which use such approaches as reduced class size or programs where remediation is inherent in the program."[8] Such programs would not be charged to the PSEN account but rather to another program.

In an attempt to determine the true costs of the PSEN program the SED staff obtained cost data based on a program budget from a sample of ten districts across the State. The results indicated: (1) a wide range in the amounts the districts spent on PSEN programs--ranging from $184 to $4,421 per pupil, and (2) the districts apparently spent an average of 17 percent more than they had estimated on their PSEN program plans (PSEN-1 forms), although the relationship between actual and estimated costs of the PSEN program varied widely among the selected districts.

As a consequence the SED study recommended that the PSEN weighting be raised from .25 to .35. Unfortunately the study's basic premise--that district expenditures for PSEN programs are not covered by the State's weighting formula--was not demonstrated. The comparison was made between estimated expenses (those reported on the district's PSEN-1 form) and the presumed true costs (as determined by the study's questionnaire). However, the study did not compare the district's actual reported expenses with the data reported on its questionnaire. Unfortunately, as the authors of the report noted, there was no central repository where the districts or SED could determine what the districts actually spent on the program, exclusive of local funds.[9] With the merging of Title I and PSEN programs in 1980-81, this task will become even more difficult.

The inadequate information to gauge actual PSEN expenditures at the district level reflects the inadequacy of SED guidelines for accounting for PSEN State aid. The districts have not and cannot be expected to provide a more complete accounting than has been required by SED.

Chapter Summary

- District expenditure reporting to SED is not in compliance with legislative intent because SED allows local spending to be lumped with expenditure from State aid. As a result of this lumping and of failure to use a more detailed PSEN financial form for expenditure reporting, there is no information from SED on how PSEN funds were used.

- Deductions by SED for PSEN State aid that was not used or was inappropriately used have been minimal. This results from the difficulty in determining eligible program services, limited program monitoring and the emphasis SED has placed on not allowing districts to lose funds because of underreporting their expenditures.

- District expenditure reporting to LCER exceeded aid paid for PSEN indicating that districts cannot separately account for PSEN expenditures. Inadequate expenditure information in the districts reflects the inadequacy of SED guidelines for accounting for PSEN State aid.

FOOTNOTES

I Program Intent, Evolution and Magnitude

1. Chapter 685 of the Laws of 1968.
2. See New York State Commission on the Quality, Cost and Financing of Elementary and Secondary Education, Report of the . . . (Albany; the Commission, 1972) Vol. 2, p. 9.83 and Vol. 1, p. 2.17.
3. Education Law, Section 3602, Subd. 10(a).
4. Ibid., Subd. 10(b).
5. Ibid., Section 3602, Subd. 1(e).
6. 8 NYCRR 100.1; SED, The Regents Competency Testing Program, March 1979, p. 2; Letter to LCER Staff from SED, Assistant Commissioner for General Education and Curricular Services, February 18, 1981.
7. SED, Report to the Regents, Proposed Resource Allocation Plan, July 1978.
8. Letter to LCER Staff from SED, Assistant Commissioner for General Education and Curricular Services, July 9, 1981 and Letter to SED, Deputy Commissioner for Elementary, Secondary and Continuing Education, from the Department of Health, Education and Welfare, Deputy Commissioner for Elementary and Secondary Education, letter received by SED on August 20, 1979 in response to their letter of June 29, 1979.
9. 8 NYCRR 149.2, 103.2.
10. 8 NYCRR 149.3.
11. Letter to LCER Staff from SED, Assistant Commissioner for General Education and Curricular Services, February 18, 1981 and SED, Progress Report Resource Allocation Plan, January 1980, p. ES 8.3.
12. Letter to LCER Staff from SED, Assistant Commissioner for General Education and Curricular Services, February 18, 1981 and SED Memorandum to District Superintendents, Superintendents, Principals of Public and Nonpublic Schools, ESEA Title I/PSEN Coordinators from Assistant Commissioner for General Education and Curricular Services, concerning Comprehensive ESEA Title I and PSEN Application for School Year 1979-80, June 1979.
13. Ibid.
14. SED, Division of Urban Education, "Program Bulletin No. 1, Planning Guide for Programs for Pupils With Special Educational Needs," October 1975.
15. Education Law, Section 207.
16. Letter to LCER Staff from SED, Director, Division of Educational Finance, June 30, 1981.
17. Ibid.
18. Office of the State Comptroller, Division of Audits and Accounts, Pupils With Special Educational Needs, New York City Board of Education for the Period July 1, 1974 through June 30, 1978, Audit Report NYC-80-77, October 10, 1980.

II Program Administration

1. Letter to LCER Staff from SED, Assistant Commissioner, Office of General Education and Curricular Services, February 18, 1981, p. 4.
2. Ibid., p. 2.
3. SED, Report to the Regents from Deputy Commissioner for Elementary, Secondary and Continuing Education, "Comprehensive Planning Requirement for ESEA Title I and Pupils With Special Educational Needs Programs," July 3, 1980, p. ES 2.4.

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4. 8 NYCRR 149.2, effective July 1, 1974.
5. SED, Memorandum to City, Village and District Superintendents; Supervising Principals from Director, Division of State Education Opportunity Programs, "PSEN Program Bulletin No. 3, Planning for 1976-77 Programs for Pupils with Special Educational Needs," June 1976, pp. 2-3.
6. Chapter 241 of the Laws of 1974.
7. Education Law, Section 3602, Subd. 1(e).
8. SED, Bureau of Elementary and Secondary Educational Testing, "Grade Equivalent for PEP Tests in Reading and Mathematics, Grade 3 and 6," 1973.
9. Letter to LCER from the SED, Director, Division of Educational Testing, November, 5 1981, p. 2.
10. 8 NYCRR 149.3, effective July 1, 1974.
11. Letter to LCER Staff from Project Coordinator, Northville Central School District, July 28, 1981.
12. Letter to LCER Staff from SED, Assistant Commissioner for General Education and Curricular Services, September 2, 1981, p. 1.
13. Ibid.
14. SED, Division of Education Opportunity Programs, ESEA I/PSEN Compiled Laws and Policies CLPs, December 1980.
15. SED, Report to the Regents from Deputy Commissioner for Elementary, Secondary and Continuing Education, "Comprehensive Planning Requirement for ESEA I and Pupils with Special Educational Needs Programs," July 3, 1980, p. ES 2.4 and letter to LCER Staff from SED, Assistant Commissioner for General Education and Curricular Services, February 18, 1981.
16. 8 NYCRR 149.2.
17. Letter to LCER Staff from the Director, Division of Educational Testing, SED, November 5, 1981, p. 1.
18. SED, Report to the Regents from Deputy Commissioner for Elementary, Secondary and Continuing Education, "Comprehensive Planning Requirement for ESEA I and Pupils with Special Educational Needs Programs," July 3, 1980 and letter to LCER Staff from SED, Assistant Commissioner for General Education and Curricular Services, February 18, 1981.
19. Letter to LCER Staff from SED, Director, Division of Education Opportunity Programs, November 4, 1981, pp. 1-2.
20. Letter to LCER Staff from SED, Assistant Commissioner for General Education and Curricular Services, February 18, 1981, p. 3.
21. Newburgh 1979-80.
22. Letter from Assistant Superintendent for Instructional Services, Newburgh Board of Education to Bureau of Reading Education, SED, October 22, 1979.
23. SED, Division of Education Opportunity Programs, Program Application Reviews for 1978-79, 1979-80 and 1980-81 for 11 Sample Districts submitted in response to LCER request dated July 13, 1981.
24. NYS Education Department, Division of Education Opportunity Programs, Handbook [of] Comprehensive Remedial Program Assessment, June 1981.
25. Letter to LCER from SED, Assistant Commissioner for General Education and Curricular Services, June 18, 1981.
26. Letter to LCER Staff from SED, Assistant Commissioner for General Education and Curricular Services, September 2, 1981, p. 1.
27. Letter to LCER from the Director, Division of Education Opportunity Programs, SED, November 4, 1981, p. 1.
28. Letter to LCER Staff from SED, Assistant Commissioner for General Education and Curricular Services, February 18, 1981, p. 2.
29. Letter to LCER Staff from the Grants Coordinator, Nyack Public Schools, July 30, 1981.

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III Program Accountability

1. SED, Division of Education Opportunity Programs, Application Control Center, "Remediation and Bilingual Education Program Data, and Application for Funding under: ESEA Title I (PL 89-10) as Amended and PSEN (Pupils with Special Educational Needs)", 1980-81, p. 6.
2. Letter to LCER Staff from SED, Chief, Bureau of School and Categorical Programs Evaluation, August 21, 1981, p. 4.
3. Ibid.
4. Ibid.
5. Responses of five sample districts to LCER's School District Survey, May-June 1981.
6. Education Law, Section 3602.
7. Gaughan, James and Glasheen, Richard J., "Research Report of the Study on Special Pupil Needs," conducted by SED for the New York State Task Force on Equity and Excellence in Education, March 19, 1980, p. 47.
8. Ibid., p. 41.
9. Ibid., p. 47.
10. Letter to LCER Staff from SED, Chief, Bureau of School and Categorical Programs Evaluation, August 21, 1981, p. 2.
11. Ibid., p. 5.
12. Letters to LCER Staff from SED, Chief, Bureau of School and Categorical Programs Evaluation, July 7, 1981, p. 8 and August 21, 1981, p. 5.
13. Letter to LCER Staff from SED, Chief, Bureau of School and Categorical Programs Evaluation, July 7, 1981, p. 5.
14. Ibid., p. 8.
15. Ibid., p. 6.
16. Response of 11 Sample Districts to LCER School District Survey, May-June 1981.
17. Letter to LCER Staff from Evaluation Associate, White Plains Public Schools, July 7, 1981.
18. Letter to LCER Staff from SED, Director, Division of Education Opportunity Programs, May 21, 1981.
19. Letter to LCER Staff from SED, Chief, Bureau of School and Categorical Programs Evaluation, August 21, 1981, pp. 4-5.
20. Letter to LCER staff from SED, Director, Division of Educational Testing, November 5, 1981.
21. Letter to LCER Staff from SED, Chief, Bureau of School and Categorical Programs Evaluation, July 7, 1981, p. 3.
22. Letter to LCER Staff from Coordinator of Federal Projects, Brentwood Union Free School District, July 29, 1981.
23. Letter to LCER Staff from Elementary School Principal, Highland Central School District, September 21, 1981.
24. Letter to LCER Staff from Grants Coordinator, Nyack Public Schools, August 10, 1981.
25. 8 NYCRR 100.1(f).
26. 8 NYCRR 149.3(c).

IV Fiscal Accountability

1. Account number A2270 in the School District Annual Financial Report (the ST-3 report).
2. James M. Gaughan and Richard J. Glasheen, "Research Report of the Study on Special Pupil Needs," conducted by the SED for the NYS Task Force on Equity and Excellence in Education, March 19, 1980.

3. Education Law, Section 3602.
4. Memo to Superintendent of Schools from SED, Bureau of State Aided Programs, undated. SED adds a factor to both instructional and non-instructional salaries to account for fringe benefits. In 1978-79 that factor was 28 percent, in 1979-80 it was 32 percent.
5. SED made deductions for the following school districts in 1976-77:

Dannemora	$ 4,389
Harrisville	31,845
Menands	4,064
Moriah	73,844
Northeastern Clinton	50,483
Richmondville	9,530

Letter to LCER from SED, Director, Division of Educational Finance, SED March 20, 1981.

6. Letter from PSEN Unit Head, SED to Superintendent, West Hempstead School District, December 28, 1978.
7. Ibid., p. 57. The study's authors hint at some of these problems when they note: "The districts at first were reluctant to estimate expenditures on approaches, which were not pullout programs and for which a clear audit trail did not exist. Instructions regarding the costs of Special Pupil Need programs need to be revised so as to provide more data and insight concerning local effort." Ibid., pp. 86-87.
8. Ibid., p. 58.
9. Ibid. pp. 56-58 and 86-87.

APPENDIX A

LIST OF INTERVIEWS, CONTACTS AND VISITS

State Education Department

Former Executive Deputy Commissioner; Assistant Commissioner of General Education and Curricular Services; Director, Chief, Bureau of Education Opportunity Programs (Upstate), Supervisor, Associate in Urban Education, Associate in Education of the Disadvantaged (3), Education of the Disadvantaged Program Aide, Senior Clerk, Clerk, Division of Education Opportunity Programs; Director, Bureau of Mathematics Education; Director, Bureau of Reading Education; Coordinator, Resource Allocation Plan; Director, Division of School Supervision; Director, Associate in Education Research, Bureau of School and Categorical Programs Evaluation; Director, Assistant in Educational Testing, Bureau of Elementary and Secondary Testing Programs; Director, Division of Educational Finance; Supervisor of School Financial Aid, Supervisor of State-Aided Programs, Data Management Specialist, Bureau of State-Aided Programs; Director, Assistant in Educational Data Systems, Bureau of Educational Data Systems; Computer Programmer, Division of Electronic Data Processing; Director, Supervisor in Higher Education Opportunity, Bureau of Higher Education Opportunity Programs; Director, Bureau of Program Development, Office of Education of Children With Handicapping Conditions.

Boards of Cooperative Educational Services

Onondaga/Madison Board of Cooperative Educational Services (BOCES)--Project Manager, Project Impact;
Rensselaer/Columbia/Greene BOCES--Regional Evaluation Specialist;
Saratoga/Warren BOCES--Assistant Superintendent, Director of Data Processing;
Southern Westchester BOCES--Regional Evaluation Specialist.

School Districts

Brentwood Union Free School District--Coordinator of Federal Projects, Director of Curriculum, Coordinator of Testing and Evaluation, Department Head Bilingual Program, Superintendent;
Brighton Central Schools--Director of Instruction, Superintendent, Business Manager, Director of Pupil Services, Director of Personnel;
Freeport School District--Superintendent, Title I Coordinator;
Highland Central School District--Title I Coordinator, Elementary School Principal;
Jasper Central School District--Superintendent, Principal;
Kinderhook Central School District--Superintendent, Coordinator of Math, Coordinator of Reading;
Newburgh Central Schools--Assistant Superintendent for Instruction and Curriculum;
Northville Central School District--Superintendent, Project Coordinator;
Nyack Public Schools--Grants Coordinator, Superintendent;
Richfield Springs Central School--Superintendent;
Schenectady City School District--Supervisor, Federal/State Programs;
Shenendehowa Central School District--Director of Reading and Language Arts;

South Colonie School District--Superintendent, Assistant Superintendent, Language Arts Head, Math and Computer Assisted Instruction Head;

Syracuse City School District--Executive Deputy Superintendent for Planning and Evaluation, Supervisor of Instruction, Teacher Aides and Assistants, Assistant to the Director for Special Programs and Evaluation, Director of Evaluation and Assessment, School Business Administrator/Finance;

West Hempstead School District--Assistant Superintendent, Director of Business;

White Plains Public Schools--Director, Reading Center, School Business Executive/Treasurer, Evaluation Associate.

APPENDIX B

COMPARISON OF PSEN AND TITLE I PROGRAMS BEFORE AND AFTER UNIFICATION OF PROGRAM ADMINISTRATION

Comparison of selected remedial instruction program and administrative criteria between Pupils With Special Education Needs (PSEN) and ESEA Title I Programs before and after unification of two separate divisions and amendments to the PSEN regulations.

CRITERIA BY PROGRAM

PUPILS WITH SPECIAL EDUCATIONAL NEEDS (PSEN) (STATE AID)		ELEMENTARY, SECONDARY EDUCATION ACT - TITLE I (ESEA TITLE I) (FEDERAL AID)	
Before	**After**	**Before**	**After**
Program Objectives			
Include provision for remediation in basic skills of reading, mathematics, writing, using a bilingual approach where appropriate.	Flexibility in program configuration to encourage in-classroom remediation.	Include provision of remediation in basic skills of reading, mathematics, writing, using a bilingual approach where appropriate.	Include provision of remediation in basic skills of reading, mathematics, writing using a bilingual approach where appropriate.
Program objectives were included in a three-year district plan which remained in the district. Prior approval not required. Services were intended to supplement locally funded programs.	PSEN/ESEA Title I unified application is for three years, including an annual update and SED approval.	Programs required an annual application, as well as, prior approval.	PSEN/ESEA Title I unified application is for three years, including an annual update requiring prior approval by the SED.
Services must be coordinated with the regular school curriculum.	Services must be coordinated with the regular school curriculum and ESEA Title I remedial programs in target schools.	Programs are required to supplement a pupil's regular program of instruction funded from local and State Aid.	Programs are required to supplement a pupil's regular program of instruction and remedial instruction from local and State Aid.
Each Education Department Compensatory Education Division operated separate programs in the same area of the school curriculum. (Division of Federal Education Opportunity Programs; Division of State Education Opportunity Programs)	Education Department resources are now combined and the programs in this area are coordinated and administered by one Division. Coordination/articulation of remedial program to the regular programs of instruction and other remedial programs required.	Services must be coordinated with regular program of instruction.	Education Department resources are now combined and the programs in this area are coordinated and administered by one Division. Coordination/articulation of remedial program to the regular programs of instruction and other remedial programs required.
Compensatory Education Divisions competed for the staff time of subject area Bureaus in Reading, Mathematics, etc.	Better utilization of subject area Bureaus has been accomplished. Bureau staffs supervise remedial programs using basic criteria regardless of funding source.	Compensatory Education Divisions competed for the staff time of subject area Bureaus in Reading, Mathematics, etc.	Better utilization of subject area Bureaus has been accomplished. Bureau staffs supervise remedial programs using basic criteria regardless of funding source.
Separate programs competed for the same pupils and often overlapped or duplicated services and activities.	Single criteria and procedures for pupil selection, needs assessment, program evaluation, and coordination in school planning now exist.	Separate programs competed for the same pupils and often overlapped or duplicated services and activities.	Single criteria and procedures for pupil selection, needs assessment, program evaluation and coordination in school planning now exist.
Eligible Pupils First Time		**Eligible Pupils First Time**	
Pupils selected for remedial instruction were those scoring two or more years below grade level on a standardized test or at or below the twenty-third percentile in all schools.	Pupils selected for remedial instruction are those scoring below the Statewide Reference Points on Regents Competency Tests and/or those scoring below the thirty-fifth NCE or twenty-fifth percentile on other tests acceptable to the Commissioner in all schools.	Pupils selected for remedial instruction were those scoring two or more years below grade level on a standardized test or at or below the twenty-third percentile and are enrolled in poverty eligible schools and are residents of the eligible school attendance area.	Pupils selected for remedial instruction are those scoring below the Statewide Reference Points on Regents Competency Tests and/or those scoring below the thirty-fifth NCE or twenty-fifth percentile on other tests acceptable to the Commissioner and are enrolled in poverty eligible schools and are residents of the eligible school attendance area.

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CRITERIA BY PROGRAM

PUPILS WITH SPECIAL EDUCATIONAL NEEDS (PSEN) (STATE AID)

Before	After
Once a pupil was declared eligible to receive remediation the percentage of participants from the total was controlled by total funds available. Not all pupils served.	All pupils who score below Statewide reference points must be provided appropriate remediation until they pass the State required test or until evidence indicates that in all likelihood they will pass the test when next administered.
Eligible Program Services and Costs	
Priorities remain the same as listed in objectives.	Priorities remain the same as listed in objectives.
Program components could include staff salaries, purchase of equipment, materials, supplies, administrative costs solely funded from PSEN aid.	The unified program allows for more effective use of funding to provide compensatory education services based on identified pupil needs. The activities noted in the before column may now be jointly funded by both ESEA Title I and PSEN funds in target schools.
Eligible Instruction Methods (i.e., Regular Classroom, Additional Instruction, Pull-out, etc.)	
Any method could be used. Isolated pupil pull-out programs most common practice.	More in-class services, transition classes, i.e., pre-first grade, and reduced class size groupings are being offered which are clearly in addition to services provided to all children. Instructional/planning, coordination and articulation of remedial instruction with classroom curriculum and between classroom and remedial instruction staff now required by guideline. Remedial instruction is now provided in a coordinated/articulated program within the classroom through tutorial or specialized instruction or through tutorial or small group instruction outside the classroom setting in learning resource rooms.
Eligible Student/Teacher Ratios	
Small group instruction and teacher load not defined.	Small group defined by guidelines as eight or fewer pupils. Through guideline, teacher/pupil ratio set at 1:50.
Eligible Teaching Manpower Academic Requirements	
All instructional staff must meet New York State certification requirements.	All instructional staff must meet New York State certification requirements.

ELEMENTARY, SECONDARY EDUCATION ACT - TITLE I (ESEA TITLE I) (FEDERAL AID)

Before	After
Once a pupil was declared eligible to receive remediation, the percentage of participants from the total was controlled by the total of funds available. Not all pupils served.	All pupils who score below Statewide reference points must receive appropriate remediation until such time as they pass State required tests or until evidence indicates that in all likelihood they will pass the test when next administered and when evidence indicates an achievement level equal to their peers.
Eligible Program Services and Costs	
Priorities remain the same as listed in objectives.	Priorities remain the same as listed in objectives.
Program components could in clude staff salaries/training; parent involvement/training; purchase equipment, materials, supplies, administrative costs, evaluation/assessment costs. Sole funding from ESEA Title I most common practice.	The unified program allows for more effective use of funding to provide compensatory education services based on identified pupil needs. The activities noted in the before column may now be jointly funded by both ESEA Title I and PSEN funds in target schools.
Eligible Instruction Methods (i.e., Regular Classroom, Additional Instruction, Pull-Out, etc.)	
Any method could be used. Isolated pupil pull-out programs most common practice.	More in-class services, transition classes, i.e., pre-first grade, and reduced class size groupings are being offered which are clearly in addition to services provided to all children. Instructional/planning, coordination and articulation of remedial instruction with classroom curriculum and between classroom and remedial instruction staff now required by guideline. Remedial instruction is now provided in a coordinated/articulated program within the classroom through tutorial or specialized instruction or through tutorial or small group instruction outside the classroom setting in learning resource rooms.
Eligible Student/Teacher Ratios	
Small group and teacher load not defined.	Small group defined by guidelines as eight or fewer pupils. Through guideline, teacher/pupil ratio set at 1:50.
Eligible Teaching Manpower Academic Requirements	
All instructional staff must meet New York State certification requirements.	All instructional staff must meet New York State certification requirements.

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BASIC SIMILARITIES AND DIFFERENCES BETWEEN SELECTED PSEN AND ESEA TITLE I PROGRAM REQUIREMENTS

	PSEN	ESEA TITLE I
Governance	N.Y.S. Education Law Chapter 341 of 1974.	Federal Public Law 95-561 Elementary, Secondary Education Act, Title I.
	Part 149 of Commissioner's Regulations and Rules of the Board of Regents.	Federal Regulations §200.1-200.2, §201.1-201.179.
	Other selected Commissioner's Regulations and Rules of the Board of Regents (Teacher Certification, Required Remediation, etc.).	Selected regulations from General Education Provisions ACT (GEPA) and Education Department General Administrative Regulations (EDGAR).
		Applicable State laws and regulations.
Financial Aid	Based on 6th grade pupil achievement scores in reading.	Based on poverty statistics.
Aid Payment Schedule	Paid to local education agencies as part of the routine State Aid payment schedule.	Paid as reimbursement based on vouchers; monthly or quarterly, depending on amount of allocation.
Pupil Eligibility for Remedial Services	All pupils who score below Statewide Reference Point (SRP) on required tests and/or other tests acceptable to the Commissioner.	Same as PSEN.
	Pupils who score below the 35th NCE or 25th percentile on standardized tests acceptable to the Commissioner.	Same as PSEN.
		Pupils must reside in and attend schools located in poverty areas.
		Pupils who reside in an eligible poverty attendance area but are enrolled in a nonpublic school.
Location of Remedial Program Services	Any public school facility only.	Eligible "target" public school facility only.
		Nonpublic school facilities.
Pupil Assessment of Achievement Level	Screening of pupils at local district expense.	Same as PSEN.
Program/Pupil Evaluation	Evaluation of achievement of participating pupils (pre/post) funded from local or State funds.	Evaluation of achievement of ESEA Title I eligible participating pupils (pre-post) funded solely from ESEA Title I aid or jointly though State and/or local aid or solely through State and/or local aid.
Evaluation Design	Schedule of test administration, name(s) of selected test(s), analysis and use of data required.	Same as PSEN.
	Same as ESEA Title I.	A single Evaluation Design for both PSEN/ESEA Title I may be used.
Continuation of Remediation	Until pupil passes the required State test or until evidence indicates that in all likelihood the test will be passed when next administered.	Same as PSEN.
		Until the pupils are achieving at a level equal to their peers.
Application Requirements	Local education agencies must submit a unified application which reflects: Comprehensive planning of interrelated programs regardless of funding source; instructional/organizational methods to be used; evaluation design, items of expenditure, etc. to the Education Department for approval.	Same as PSEN.
		In addition, applications must include information about: services in nonpublic schools; parent participation; complaint procedures; target area (school) selection.
		Education Department prior approval required.

Source: *SED Division of Education Opportunity Programs, November 4, 1981.*

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APPENDIX C

CALCULATION OF PSEN AID

PSEN Formula

PSEN aid is one of the aids based on additional aidable pupil units. These aids are generated by an extra weighting given for the attendance of particular students. Since certain programs are more costly than others, students involved in these programs are more expensive to educate. To compensate for this, pupils involved are counted more than the 1.0 that their attendance would otherwise generate. The additional weighting for PSEN is .25. Originally, aid attributable to PSEN was calculated in this fashion:

1. Determine the combined total number of students in the district who took:

   --The 1971-72 PEP for 6th grade reading,

   --The 1971-72 PEP for 6th grade mathematics,

   --The 1972-73 PEP for 6th grade reading, and

   --The 1972-73 PEP for 6th grade mathematics.

2. Determine the combined total number who fell below level four on each of these exams and divide this by the total number taking the exam. This is the district's "PEP percent."

3. Multiply the PEP percent by the base year (year prior to aid year) K-12 adjusted Average Daily Attendance.

4. Multiply by .25 to determine "weighted PSEN" or "Special Educational Needs Aidable Pupil Units."

5. Multiply this figure by the aid per pupil unit to determine "PSEN Aid" or "Aid Attributable to PSEN."

PSEN Expenditure Check

However, if a district has limitations placed on the total amount of operating aid that it can receive in a specific year, this limitation must also take into account the fact that the aid attributable to PSEN would likewise be reduced. The aid attributable is calculated by determining the ratio of the operating aid generated by formula to that which the district will actually receive, and applying the same ratio to the PSEN aid generated. This ratable reduction is used for the expenditure check required by Section 3602. No ratable increase is made for districts on Save Harmless.

PSEN Formula Revisions

Chapter 74, Laws of 1978 changed the computation of the PEP percent outlined above. The new calculation, effective with the 78-79 aid year, updated the PEP information by using tests given in school years 1974-75 and 1975-76 for reading and math, and includes PEP test data for both 3rd and 6th grades.

All other steps remain the same.

The Formula continuing from aid year 1978-79 is:

$$\frac{\text{Combined total gr. 3 + 6 pupils below level 4 (of 9) in PEP math + reading}}{\text{Combined total taking 3rd and 6th grade test}} = \text{PEP\%}$$

PEP% x district base year K-12 adjusted ADA x .25 = PSEN aidable pupil units

PSEN aidable pupil units X district aid per pupil unit = PSEN Formula Aid amount.

Secondary Weighting in Relation to PSEN

When additional weighting for PSEN was originally enacted by Chapter 241, Laws of 1974, an additional weighting of .25 was given for secondary students (grades 9-12) not previously weighted. This meant that secondary PSEN students generated the additional weighting as PSEN students, but no additional weighting for being secondary students. The PSEN weighting had to be applied first, and those pupils were then excluded from the secondary weighting. The additional .25 weighting had to be considered as PSEN, not secondary.

Chapter 74 of the Laws of 1978 required the secondary weighting to be calculated in two steps. The first step, as above, was a .25 weighting which excluded PSEN students. In addition a weighting of .15 was applied for those secondary students who had already generated a .25 PSEN weighting. Aid generated by this .15 was considered to be secondary weighting aid, unrelated to PSEN aid.

In 1980 the law changed again. Pursuant to Chapter 53 of the Laws of 1980, starting with 1980-81 aid, the .25 weighting for secondary students is calculated on the basis of a pupil count that does not exclude PSEN students. The .15 additional secondary weighting for PSEN pupils has been repealed and PSEN secondary students now generate both a .25 PSEN weighting and a .25 secondary weighting.

In summary,

1974-75 through 1977-78 - PSEN pupils excluded from secondary weighting;

1978-79 and 1979-80 - pupils excluded from secondary weighting; PSEN pupils 9-12 given added .15 weighting.

From 1980-81 - PSEN pupils no longer excluded from secondary weighting.

Source: SED, Division of Educational Finance.

APPENDIX D

EXAMPLES OF SCHOOL DISTRICTS CLASSIFIED AS URBAN, SUBURBAN AND RURAL

This study uses a classification of school districts into various urban, suburban and rural categories developed by SED's Division of Educational Testing

Examples of how various school districts were classified follows:

Large Cities--Albany, Buffalo, Niagara Falls, Rochester, Syracuse, Utica, Yonkers[a]

Medium Size Cities--Binghamton, Elmira, Mount Vernon, New Rochelle, Rome, Schenectady, Troy, White Plains[a]

Small Size Cities--Amsterdam, Dunkirk, Jamestown, Newburgh, Ogdensburg, Poughkeepsie, Saratoga Springs, Watervliet[b]

Village and Large Central School Districts--Brighton, Brentwood, Cheektowaga, Great Neck, Liverpool, North Colonie, Nyack, Patchogue, Shenendehowa, West Hempstead[b]

Large Rural--Canajoharie, Chatham, Delhi, Highland, Lake Placid, New Hyde Park, Oriskany, Pulaski, Richfield Springs, Schoharie, Valhalla, Warrensburg[b]

Small Rural--Broadalbin, Cairo, Dannemora, Fort Edward, Garrison, Geneseo, Montauk, Northville, Stamford, Wells[b]

[a]Includes all districts in category.
[b]Includes illustrative examples of districts in category.

APPENDIX E

EXTENT OF PROGRAM CHANGE OR CONTINUITY IN CASE STUDY DISTRICTS FROM 1978-79 to 1980-81

The audit found that SED took actions intended to prompt many and various changes in the nature of PSEN programs at the school district level. The study period covered the last year in which PSEN was separately administered (1978-79), a transition year (1979-80), and a year when unified program administration had been fully achieved. It may be that this study period does not fully capture all the program changes that may ultimately result from SED's actions because of the time that must lapse before their full impact is known. For example, the changes in SED rules and regulations described in Chapter I went into effect in December of 1980, and hence were not officially operative during the study period. However, many of the changes adopted in December 1980 actually were operative earlier by the program staff. Another example of this early adoption of change is the shift to prior approval. While SED announced to districts that it was to be introduced for the first time 1980-81, SED program staff reviewed applications for the 1979-80 year as if this process had already begun.

Given these caveats about the extent of program change or continuity in the three-year study period, it is still appropriate to consider what changes the case study districts attributed to SED actions and reported as underway during that period.

The relationship of PSEN programs to Title I programs is one area of change sought by SED. It was intended to achieve coordinated programs. Of the 11 case study districts, six reported that PSEN programs had remained unchanged in terms of subjects taught or grade levels served. Thus if change was achieved, it was in Title I programs, not PSEN. This does not mean that for six of these programs there is no coordination. It simply means that SED's actions did not produce a change in these districts in these basic areas.

The five districts that reported changes in PSEN programs indicated that the change had been in subjects taught. Writing or a bilingual program component had been added since 1978-79. Although SED has promoted addition of writing and bilingual program components, these additions need not be funded from PSEN state aid.

SED program staff had campaigned against pullout programs because of the problems of coordinating such programs with regular classroom activity. In 1978-79 all 11 districts reported use of a pullout program model (i.e., one in which students in need of remediation are pulled out of their regular classrooms to obtain compensatory education services). In 1980-81 all districts were still using this method of instruction. It should be noted that the "war" declared against pullout programs by SED's Assistant Commissioner for General Education and Curricular Services was not unanimously endorsed by all SED units involved in the administration of PSEN. The Director of the Mathematics Bureau views this model as most appropriate for remediation in this subject area.

There were additional changes reported in PSEN programs over time that represented the judgments of district officials that usually were unsupported by hard data because of the information problems reported in Chapter III. These had to do primarily with the perceived impact of change on target population served.

In general, the districts reported that the changes introduced by SED had a greater impact on the number of first-time enrollees than on continuing enrollees. Eight districts

reported that mandated remediation for all students falling below the Statewide Reference Point on a State mandated test had increased the number of first-time enrollees; four also believed it increased the number of continuing enrollees.

Six districts also believed that the addition of a writing requirement had increased those served.

Use of a new type of sixth grade reading test was reported to have increased first time enrollees in six districts and the number of continuing students in three.

Districts were most divided on the impact of retention of continuing students until the fifth stanine is achieved. SED had intended this change to prolong remedial services to continuing students. Three believed it resulted in increases, three believed there had been no change, three reported they were not following the guidelines and one reported a decrease in service to continuing students.

Other instances of program change or continuity have been reported in the appropriate audit chapters.

APPENDIX F

SED AGENCY RESPONSE AND LCER REBUTTAL

Note: *Because of the length and format of the SED Agency Response, the LCER Rebuttal has been incorporated into it. In this manner, the LCER report statements, SED Responses and related LCER Rebuttal can be reviewed simultaneously. Page numbers in the SED Response have been changed to coincide with the page numbers used in the final audit report.*

THE UNIVERSITY OF THE STATE OF NEW YORK
THE STATE EDUCATION DEPARTMENT
ALBANY, NEW YORK 12234

THE EXECUTIVE DEPUTY COMMISSIONER OF EDUCATION

COPY

February 5, 1982

Mr. Sanford E. Russell, Director
Legislative Commission on
Expenditure Review
111 Washington Avenue
Albany, New York 12210

Dear Mr. Russell:

Thank you for the opportunity to review the preliminary and confidential report prepared by your staff concerning the Pupils with Special Educational Needs program. The report has been reviewed by staff of the various offices involved in the administration of this program.

Our response is enclosed. It includes a summary and a detailed response to those areas which warrant correction or explanation.

Should you have any questions, we would be pleased to discuss them with you.

Sincerely,

Robert J. Maurer

cc. Commissioner Ambach

NEW YORK STATE EDUCATION DEPARTMENT

RESPONSE TO THE

PRELIMINARY AND CONFIDENTIAL REPORT OF THE

LEGISLATIVE COMMISSION ON EXPENDITURE REVIEW

ON

PUPILS WITH SPECIAL EDUCATIONAL NEEDS

February 1, 1982

Summary

Legislative Intent:

Chapter 241, Laws of 1974, Section 3602 states:

> "school districts receiving an apportionment should use the total apportionment for programs for such pupils in accordance with Regulations issued by the Commissioner. Such Regulations shall provide for the use of such apportionment in the manner determined by the Commissioner to be the most educationally advantageous for such pupils."

Page S-3 of the LCER report states:

> "In administering the PSEN program, SED has attempted to change that program to make it instrumental to SED's introduction of new education program components such as PSEN/Title I unification, Statewide minimum competency testing, and the mandated remediation of pupils scoring poorly on those competency tests -- administrative changes that exceeded the limits of legislative intent. Essentially, the PSEN program was redefined not because of amendments to PSEN enabling legislation, but because of these administrative changes made outside of the legislative process."

In keeping with the legislative intent, the focus of the State Education Department's (SED) PSEN program is to provide the "most educationally advantageous program for such pupils." Toward that end, the Commissioner has promulgated regulations and made administrative changes to:

- establish early identification of pupils most in need of remediation through a statewide testing program in reading, writing and mathematics;
- require districts to provide remedial programs to all pupils who fall below the statewide reference point;
- require districts to notify parents of the pupils' test scores and the plan for remediation;
- allow greater programming flexibility by deleting the words "in addition to" from PSEN regulations;
- require districts to develop comprehensive plans for the use of local, state (PSEN) and federal (ESEA Title I) funds in a coordinated manner which eliminates the need for the preparation of separate applications;
- prevent future audit exceptions by requiring prior SED review of the comprehensive plans;
- allow districts to serve pupils who have reached the statewide reference point in order to sustain the positive educational gains made by participating in remedial programs.

Additionally, in the July 1978 report to the Regents on the proposed Resource Allocation Plan, a major goal was the reorganization of the Office of Elementary, Secondary and Continuing Education in order to better coordinate and deliver services to districts throughout the State. The Regents took action to move the Division of State Education Opportunity Programs (responsible for the State aid program for PSEN) and the Division of Federal Education Opportunity Programs (responsible for ESEA Title I programs) to the Office of General Education and Curricular Services. A major policy review of both programs was conducted.

The following summarizes the information gathered through the policy review. It contains concerns, past practices and actions taken.

Concerns	Past Practices	Actions Taken
SED Coordination	There were separate PSEN and Title I Divisions with little internal coordination.	Both Divisions were merged into the Division of Education Opportunity Programs.
Application Submission	Applications having different due dates on programs affecting the same kinds of pupils were submitted to separate offices.	A single Title I/PSEN application is now required.
Program Designs	Students were in pull-out programs that were not coordinated with the regular classroom program.	All services must be coordinated in a comprehensive plan. Pupil records must indicate service provided by all teachers.
Pupil Records	Schools maintained their own records with little indication as to what was uniformly required.	Records must be maintained for each student in each priority area. These records are reviewed by SED monitors.
Testing	Duplicate pre- and post-testing per funding sources was customary.	Testing has been reduced to a common set of requirements statewide.
Evaluation Reports	School districts submitted separate annual evaluation reports to different offices with different due dates.	One comprehensive evaluation report is submitted to one SED office.
Monitoring Responsibilities	Visits were conducted by different SED offices reviewing similar programs.	With the merger, each SED monitor is responsible for the total program.
Monitoring Schedules	Each office scheduled field visits independently. Often representatives from both offices would arrive in a district on the same date. One did not know the other was going to be there.	All visits are scheduled through the SED contact person.

Technical Assistance	Districts contacted different SED offices seeking assistance on similar problems.	There is now a single SED contact for all technical assistance requests.
Involvement of SED content specialists in revising applications	Several requests for content specialists' review of different project applications having the same program goals were made.	There is now a single review of a project application.
Building-Level Planning	Principals had little or no involvement in planning and implementing ESEA Title I and PSEN programs.	Planning teams headed by building principals are now required.
Instructional and Support Staff	Certification requirements of teachers and paraprofessionals were not generally adhered to.	No programs are approved unless certification requirements are met.
Model Programs	While good ideas were disseminated, no program models were identified and replicated.	Staff and field are identifying model programs for validation and replication.
Uniform Statewide Procedures	Four regional program monitors were responsible for providing workshops for all districts throughout the State.	Through the 44 District Superintendents, there is now a statewide network of trained ESEA Title I/PSEN liaison persons.
Lack of Compilation of Law, Rules, Regulations, and Guidelines related to ESEA Title I and PSEN	Memoranda were sent to school districts as rules, regulations and statutes changed. Ten years of this practice led to confusion in the field and in the Department.	All relevant materials have been compiled into an indexed looseleaf binder for easy access and revision. School districts have all received copies.
Monitoring by Subject Specialists	Requests for program monitoring from two compensatory education offices significantly increased the workload of subject specialists staff.	There is now a single coordinated monitoring effort for all compensatory education programs.
Instructional Services to Pupils	SED administration of separate compensatory programs prevented the coordination of funds and delivery of services to eligible pupils.	Comprehensive planning of services and coordination of local, State and federal funds are now required.

In conclusion, all regulatory and administrative actions taken by the State Education Department are clearly consistent with legislative intent to provide "the most educationally advantageous program for such pupils."

LCER REBUTTAL

LCER's Overall Assessment of the SED Agency Response

The SED agency response establishes an extreme position for SED that contains the following claims:

--The statements included in the LCER audit are mostly false and inaccurate depictions of SED administration of the PSEN program.

--The many and varied actions taken by SED to redefine the PSEN program were consistent with legislative intent to provide "the most educationally advantageous program for such pupils," and therefore did not exceed legislative authorization.

--The programmatic and fiscal reporting required by SED were sufficient for compliance with the PSEN accountability provisions of legislative intent.

These claims are spurious as is demonstrated in the program audit and as will be further detailed in this rebuttal of the SED agency response. The SED agency response contains many criticisms of the audit that detract from the real issues of whether or not legislative intent for PSEN program effectiveness and efficiency have been achieved. This rebuttal will flag such smokescreen issues and shift the reader's attention to the findings that SED has blurred by raising the extraneous ones. Finally, the rebuttal will highlight the numerous instances in which the SED agency response has inaccurately represented the statements made by LCER in the program audit including incorrect quotations from the report.

LCER's Rebuttal to the SED Agency Response Summary

The SED agency response summary (pages 64-66) highlights SED's view of what has been accomplished in the administration of PSEN programs. The summary includes the listing of 17 actions taken by SED, identification of past practices that led to the need for the improvements cited, and the conclusion that:

> . . .all regulatory and administrative actions taken by the State Education Department are clearly consistent with legislative intent to provide "the most educationally advantageous program for such pupils."

The list of accomplishments cited by SED is largely comprised of that agency's efforts to correct administrative program deficiencies that stemmed from earlier SED action or inaction. For example, SED claims credit for administrative change to "allow greater programming flexibility by deleting the words 'in addition to' from PSEN regulations" (page 64). Yet, it was SED that originally inserted this language in the regulations and created the situation of confusion about its meaning that was detailed in the audit (LCER audit, page 15). SED administration of the "in addition to" regulation led to the past practice described in the agency response summary as inappropriate: "Students were in pull-out programs that were not coordinated with the regular classroom program." (page 65)

The actions taken by SED to correct prior administratively created problems often had adverse impacts on the PSEN program that are ignored in the SED agency response summary, but are detailed in the LCER audit. For example, SED reports that in response

to concerns with the lack of Title I/PSEN coordination, "a single Title I/PSEN application is now required," and "one comprehensive evaluation report is submitted to one SED office." (page 65) The LCER audit demonstrates that these improvements in coordination were made at the expense of programmatic accountability. (LCER audit, page 25 and pages 29-30)

All the actions taken by SED and reported in its agency response summary are asserted to be "clearly consistent with legislative intent to provide 'the most educationally advantageous programs for such pupils.' " (page 66) This claim is based upon the legislative authorization to issue regulations to "provide for the use of [the PSEN] apportionment in the manner determined by the [SED] commissioner to be the most educationally advantageous for [PSEN] pupils." (Education Law, Section 3602, Subd. 10(a)) In fact, however, the actions taken go far beyond what could be justified by the words "the most educationally advantageous programs for such pupils." They include every level of administrative action SED has taken from reorganization of its own staff to introduction of the unified application and reporting requirements that nullify the PSEN reporting requirements contained in the enabling legislation: "such regulations shall also include annual district reporting requirements which shall require the identification of [PSEN] pupils, a statement describing the expenditure of the preceding year's apportionment for such pupils and an evaluation of the results obtained from such expenditures." (Education Law, Section 3602, Subd. 10(a))

As defined in its own regulations throughout most of the program's history, the words "educationally advantageous program" meant:

> . . .an instructional program which has been designed to include the following:
>
> 1) specific pupil learning objectives to provide significant improvement of pupil educational deficiencies;
>
> 2) activities and services which are clearly designed to achieve pupil learning objectives in an efficient manner;
>
> 3) expenditures which are directly related to such activities and services.

In light of this definition, it is clear that SED's rule making power was to be focused on eligible program activities and costs. SED's administrative "improvements" that redefined the program without altering legislative intent cannot be depicted as flowing from its rule-making power vis-a-vis "educationally advantageous programs."

Finally, it is worth noting that the list included in the SED agency response summary does not include all the actions taken by SED; it apparently includes only those believed justifiable under the previously cited section of legislative intent. The list on pages 65 and 66 of the summary is virtually identical to a July 3, 1980 report to the Regents by the SED Deputy Commissioner for Elementary, Secondary and Continuing Education on actions taken "to strengthen administration and operation" of Title I/PSEN programs. One action taken by SED and reported in this earlier listing is conspicuously absent from the list in SED's agency response summary:

Concerns	Past Practices	Actions Taken
Prior Approval of ESEA Title I/PSEN Applications	Only ESEA Title I required prior approval. PSEN plans simply had to be on file in the district.	Prior Approval is now required of a unified plan which includes local, State, and federal compensatory education programs and expenditures.

Of all the administrative actions taken by SED, this was the one most clearly beyond legislative authorization. In omitting it from the list in the SED agency response summary, SED continues its recent efforts to play down the usurpation of legislative authority inherent in a shift to prior approval.

The SED agency response summary does touch on prior review elsewhere, but it eschews the word "approval." On page 64 of the summary, SED reports administrative change to: "prevent future audit exceptions by requiring prior SED review of the comprehensive plans." This parallels SED's characterization of its action reported in the audit on pages 5–6; it may be helpful to recap that stance here along with the LCER audit's reaction to it:

> SED believes that invoking a prior approval requirement is fully in accord with legislative intent. In a December 7, 1981 letter to LCER from SED's Counsel, the PSEN planning and reporting requirements are cited and it is concluded: ". . .it is clear that the Legislature did not intend that the Commissioner [of Education] be limited to discovering the misuse of PSEN funds after the fact." Nevertheless, the introduction of such a requirement by SED suggests that if prior approval was not granted, that agency could stop the flow of State aid into a district as a result of its application review. However, Section 3602 of the Education Law calls for deductions in the next year, rather than in the base year. Such an after the fact link to control of the flow of funds seems to preclude any prior approval requirement, or to diminish its efficacy. The issue is simply that PSEN was intended to be operating aid while prior approval is an integral part of a categorical aid approach. Yet, SED is administering this program as if it were providing categorical aid.

The detailed SED response statements and specific LCER rebuttal comments follow. The column labelled "LCER Report" on the following pages includes the exact wording attributed to the audit in the SED agency response. The LCER rebuttal column calls attention to instances in which SED has misrepresented the audit in the LCER report column.

CHAPTER I PROGRAM INTENT, EVOLUTION AND MAGNITUDE

LCER REPORT	SED RESPONSE	LCER REBUTTAL
Pg. 2. "The initial legislation used the results from years prior to its enactment for the testing base so there would be no manipulation of test results."	This statement is false. Manipulation of testing data had nothing to do with the selection of the years to be used in determining aid. When enabling legislation was originally passed in 1974, the 1971 and 1972 Pupil Evaluation Program data was the most complete and reliable data available. When the act was amended in 1978, the most reliable and complete data available was the 1975 and 1976 PEP scores of third and sixth grade pupils.	In approving the original PSEN enabling legislation (Chapter 341, Laws of 1974), the Governor noted that the bill implemented the work of the Task Force on State Aid for Elementary and Secondary Schools. That task force in turn credited the work of a prior commission--the New York State Commission on the Quality, Cost and Financing of Elementary and Secondary Education. The reports of both study groups are replete with references to concern about the manipulation of test scores such as: "to avoid chances of manipulation, we recommend that the 1971-72 PEP scores be used as the basis for distribution."
Pg. 4. "Under the existing law if a district's PEP test results improved, less PSEN aid would be forthcoming."	This statement is false as stated. If the base year PEP data change, school districts would lose PSEN aid as a result of improved PEP test scores but only if the base year was changed.	The SED portrayal of the statement in the LCER audit not only takes the statement out of the context of the paragraph that includes it, but also out of the context of the complete sentence. Yet, it is made to appear a complete sentence by beginning a phrase with an upper case letter. Perhaps this is why this is the only SED response so worded--"This statement is false as stated." SED clearly understood LCER's point--that prior base years were retained not only to avoid manipulation, but also to avoid penalizing districts for improvement in test scores. LCER will revise the phrase as suggested in the SED response to avoid its being taken out of context in the future.
Pg. 6. "Title I participants are more abundant in large city school districts than are PSEN participants because Title I requirements take into consideration economic disadvantagement as well as educational disadvantagement. By contrast, PSEN eligibility is defined only in terms of educational need (See Appendix B for more comparative information on the two programs)."	This statement is false. Economic disadvantagement data is merely a means to determine Federal Title I allocations to states and school districts. Once the funds have been allocated, pupil participation in eligible schools is determined solely on criteria defining the educationally disadvantaged.	Appendix B in the LCER audit on page 53 includes eligibility requirements for PSEN and for Title I pupils as worded by SED's Division of Education Opportunity Programs on November 4, 1981. The wording is identical except for an additional phrase included for Title I pupils: "and are enrolled in poverty eligible schools and are residents of the eligible school attendance area." It is clear as noted in the audit that economic disadvantagement is considered in Title I eligibility requirements.
Pg. 9. "Although these districts were selected randomly within the categories listed, they represent too small a sample for definitive inferences to all districts in these categories. However, preliminary LCER research conducted in other districts not included in the case studies reported indicated that the audit's findings have applicability to other school districts."	Due to the inadequate sample, no inferences or conclusions can be drawn from the content of this LCER study which would have statewide significance to all school districts.	The audit relied on a case study and not on a sampling approach. It excluded New York City from possible selection because of a prior audit, but it did allow all other districts an opportunity for selection within groups ranging from large city school districts to small rural areas. The in-depth case study approach rather than the large-scale sampling approach was necessitated by the inadequate information resources at SED. The lack of readily retrievable and usable program information created the need for detailed review of numerous files to understand the PSEN/Title I programs in even a single district. The caveat about sample size was reported in the LCER audit and otherwise might not have been mentioned by SED since much of that agency's rebuttal of the LCER audit's chapter on fiscal accountability (Chapter IV) concerns findings from its own study which was based on a small sample, but is certainly the subject of SED inferences to all school districts.

CHAPTER II PROGRAM ADMINISTRATION

Pg. 14. "There have been formal rules and regulations adopted which have not been in keeping with legislative intent. For example ... eligible program students were defined as "pupils who have scored on their most recent acceptable test two grade levels or more below the norm for the grade level in which such pupils are enrolled in reading or mathematics..." Nevertheless," two years below grade level" was made the SED definition of target population to be served though this language does not appear in the PSEN legislation.	The significance of this definition can be understood by looking at the percentile ranks that correspond to grade equivalents two grades lower than the "norm." For example, in the Iowa Tests of Basic Skills (1971 Manual), the highest such percentile rank for reading in grade nine is 22. This compares closely with a percentile rank of 23, which corresponds to the Statewide Reference Points when they were established and which separates achievement level four from achievement level three. The more recent SED definition of the target population refers to pupils scoring below the 35th Normal Curve Equivalent (NCE), which is equivalent to the 23rd percentile. Under both definitions, the target population also includes pupils who score below the Statewide Reference Point, i.e., below level four, on a State mandated test.	Although these words from SED appear reassuring, the fact remains that only one study undertaken by SED could be used to determine if a score of two years below grade level (the language of PSEN regulations through most of the program's history) on a standardized test could be equated to below level four on specific statewide tests (the language of PSEN enabling legislation); that study suggested that below level four might be closer to one year below grade level than to two years below grade level.
Pg. 14, 37. "... there was a need to 'equate' State tests and commercially published tests."	As used by LCER, this means that the various commercially-published tests of reading and mathematics achievement should have been administered to representative samples of pupils, together with the appropriate State tests, in order to determine which scores on each of the commercially-published tests are equivalent or comparable to the scores separating achievement levels three and four on the State tests, i.e., the Statewide Reference Points. Besides being unnecessary, as demonstrated above, studies of this sort could have been conducted only in grades three and six. Since State tests can be used to identify PSEN's in these grades, the studies would be of little value. In all other grades, "equating" studies could not have been conducted since equivalent state tests are not administered.	The SED response suggests that such equating studies are unnecessary and of limited value. Yet, SED announced to school districts that it was going to seek their cooperation in such a study but then failed to follow through.

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LCER REPORT	SED RESPONSE	LCER REBUTTAL
Pg. 16. "Program application review has been the primary task of SED's Division of Education Opportunity Programs. Both this unit and others previously described devote more resources to this process than to monitoring since each school district's application is reviewed annually. By contrast, monitoring usually occurs every second or third year within a given district."	This statement is false. Review of project applications is a part of the monitoring and technical assistance commitment of program staff. Time for this review activity is not predominant. Review of applications is primarily a summer activity at which time schools are closed. Reviews that continue through the fall are on those projects which were submitted late or those projects for which SED staff are actively involved in negotiating quality objectives and program revisions. Coordination with the three-year monitoring cycle of Title I has significantly increased the number and frequency of monitoring visits involving PSEN programs. Since the unification of both programs, results show monitoring visits to 383 school districts in 1980-81, 374 districts in 1979-80, and 307 districts in 1978-79. Prior to unification in 1978-79, fewer than 40 individual district PSEN programs were monitored. These statistics belie the assertion that "review of program application is a predominant workload of the newly unified PSEN/Title I administrative unit."	Exhibit I on page 19 of the LCER audit shows that monitoring activity has increased since 1978-79. However, it also shows that two of 11 districts had not been monitored in any of the three years reviewed. The audit text on page 19 further indicates that monitoring may be comprehensive, or may be the work of a single subject matter bureau. More importantly, the audit points out on pages 20-21 that despite the potential the monitoring function provides for accountability, there has been little payoff because of inadequate SED follow-up on monitoring results. As to the SED claim that monitoring improved dramatically in 1978-79 as a result of unification of the Title I and PSEN monitoring staff, this contradicts the fact that unification did not take place before 1979-80. This is why 1978-79 was included in the audit as the year prior to unification. On November 4, 1981, SED's Director of the Division of Education Opportunity Programs affirmed LCER inquiry about when routine PSEN monitoring by the combined PSEN/Title I staff began: "you are correct in assuming that the staff of the Division routinely monitored PSEN programs as of 1979-80."
Pg. 17. "There has been a shift to a prior approval treatment of PSEN funds similar to that found in categorical aid programs where ultimate program approval is not assured." P. 17. "While prior approval was not formally underway in 1979-80, SED's review proceeded as if it were."	These statements are in error. Prior approval of PSEN program operation never has been, and is not now, a practice of the Department. Since PSEN aid is part of the general aid payment process, there is no way the Department can stop payment. Program application review is one step of several used to insure comprehensive planning and compliance with the Regents required remediation mandate, and to advise school districts before the fact that some planned activities might be subject to fiscal/program audit exception. Implementation of the unified comprehensive program plan has never delayed the flow of PSEN funds to school districts. The Title I portion of the report continues to require prior approval because of a Federal mandate. The section which deals with the PSEN program is not subjected to this same mandate. Consequently, state aid continues to be released annually in sequential payments as of July 1. A PSEN budget is requested for submission so that districts may be advised as to allowable expenditures. This tends to avoid audit exceptions. The prefiling of the comprehensive plan provides a premonitoring mechanism for PSEN purposes which enable Department staff to identify and recommend changes in program prior to actual field-monitoring. This procedure gives the school district the opportunity to make necessary changes which otherwise could result in subsequent loss of state aid and instructional time.	As previously noted in the LCER Rebuttal to the SED Agency Response Summary, prior approval had indeed been invoked for PSEN by SED. In addition to the report to the Regents on SED administrative changes already cited, other evidence of this shift to prior approval includes a February 18, 1981 letter to LCER staff from the SED Assistant Commissioner for General Education and Curricular Services stating: "In June 1979 I also alerted districts that in 1980-81 there would be prior approval for PSEN. We had never done that before." Copies of the notice to school districts and of the instruction booklet for the 1980-81 Title I/PSEN application also affirm that prior approval was in effect. Why then would SED deny that it had introduced this requirement? The answer is that SED knew it had exceeded its administrative authority. Consider, for example, the statement in the SED response in contrast to the statement made in the instruction booklet for the 1980-81 application. In the SED Response, it is asserted: "The Title I portion of the report continues to require prior approval because of a Federal Mandate. The section which deals with the PSEN program is not subjected to this same mandate." The instruction booklet in the section on Project Review and Approval states: "project approval for both ESEA Title I and PSEN funded activities will be granted after the staff of the Department's units for mathematics, reading, English, bilingual education, evaluation, and other selected units have agreed that the project is consistent with appropriate statute, regulations, guidelines, and policies. A single notice of approval will, be granted. Contingency or partial approvals will not be granted."
Pg. 20. "SED's development of a handbook for program monitoring begins the filling of a major need. However, there is need for further work as evidenced by SED's inability to respond to an LCER inquiry as to the types of eligible programs and costs resulting from elimination of the words 'in addition to' in the SED rules and regulations governing PSEN."	The program monitoring handbook and instrument serve to verify the district's compliance with State and Federal guidelines, laws and regulations, and to determine that the program proposed to the SED is in operation. Neither the handbook nor instrument is designed to gather information on the types of eligible programs and costs. This information can be obtained from the project application.	The audit demonstrates that the monitoring handbook, the compilation of laws, policies and regulations and the application instructions are deficient for identification of eligible program participants, program activities and costs. This is why LCER requested that SED complete Appendix B for inclusion in the audit. The audit noted that, while the "in addition to" mandate remained in effect, SED's guidelines had not included directives for determination of whether districts were in compliance. Now that the words "in addition to" have been eliminated, it is even more important to have guidelines and standards because PSEN program activity can now take place in the regular classroom and must be differentiated from the regular program of instruction. The SED response did not continue the quote from the LCER audit to include SED's reply to LCER's inquiry about what types of eligible programs and costs would result from elimination of the words "in addition to" from PSEN rules and regulations: "It is premature to provide examples [of eligible programs and costs] because program changes which reflect this December 24, 1980 revision will become evident only with the program updates for 1982 currently being received and reviewed in the [SED] regional offices."

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LCER REPORT	SED RESPONSE	LCER REBUTTAL
Pg. 20. "In addition to development of the handbook and revised monitoring form, another improvement planned is for the Division of Education Opportunity Programs to set monitoring priorities for other SED units in the hope that this will result in more appropriate use of program monitoring manpower."	The Division of Education Opportunity Programs (DEOP) continues to recommend to other SED units priority scheduling of school districts for monitoring. Recommendations are based on identifiable needs obtained through DEOP staff monitoring, requests for assistance from school district staff, review of remedial instruction achievement results, school district size and program complexity and consistency with the State Monitoring and Enforcement Plan for ESEA Title I. Also, team-monitoring for a comprehensive review of program operation is pre-scheduled in selected school districts.	No LCER rebuttal is necessary.
Pg. 20. "However, as previously demonstrated in Exhibit I, monitoring activity is less pervasive than program application review activity."	The allegation that monitoring activity is less pervasive than program application review activity cannot be concluded from the information contained in Exhibit I.	The "allegation" that monitoring activity is less pervasive than program application review activity is demonstrated by Exhibit I which provides the data to support the LCER audit statement of page 16 that SED devotes: "...more resources to [program application review] than to monitoring since each school district's application is reviewed annually. By contrast, monitoring usually occurs every second or third year within a given district." The SED response is one of many contained in the Department's rebuttal that contributes nothing to the dialogue about PSEN program effectiveness and efficiency except to divert attention from the questions of SED program management raised in the report.
Pg. 20. "Moreover, the action taken most frequently by SED was to share its findings with the district. There was little evidence of SED follow-up beyond feedback to the districts to assure that intent to comply was translated into district action."	SED staff monitoring of programs verifies program compliance. All findings and recommendations for improvement of practices are shared in official reports with appropriate school district staff - the only source where action can be taken. District staff respond to the report indicating action to be taken to achieve compliance and/or improve operations. School district staff assure that the intended action is taken. Subsequent monitoring of the program will confirm that action was in fact taken.	LCER challenges the SED assertion that school district staff represent: "the only source where action can be taken." This is a total denial of SED's responsibility to assure appropriate use of PSEN funds. Moreover, the SED statement indicating that district staff respond by reporting the corrective actions to be taken is a procedure only recently required by SED. It was reported as a change just introduced in a November 4, 1981 letter to LCER staff from SED.
Pg. 21. "Control by prior approval may assure that the application is in compliance, but only monitoring can verify that programs operate as stated in the application. Comprehensible standards must be developed and applied to achieve program accountability."		
	CHAPTER III PROGRAM ACCOUNTABILITY	
Pg. 23. LCER observed limited sharing of information among these units.	This is a generalization with one specific instance cited. The DEOP and the BSCPE are in daily contact.	The specific instance cited should not be overlooked because of SED's attempt to dismiss it as just one example: "...when LCER staff requested an unduplicated count of pupils served by PSEN programs (i.e., a headcount that avoided double counting pupils exposed to more than one PSEN program component) staff of the Division of Education Opportunity Programs and the Bureau of School and Categorical Program Evaluation reported that an unduplicated count did not exist. Through LCER's inquiries, SED staff of this latter unit learned at the same time as LCER staff that the Information Center for Education had obtained an unduplicated count. Therefore, the best available SED data on numbers of pupils participating in PSEN programs were collected but were not used by SED either in the management or evaluation of programs." The fact that the SED response indicates that it will shift responsibility for such data collection in an effort "...to operate its programs in as an efficient and effective manner as possible" indicates the need for correction of inadequate coordination of program information collection. However, this example was not the exception; other instances of breakdowns in program information coordination could have been cited. For example, the Director of the Division of Education Opportunity Programs had to be informed by LCER staff as to what was included and excluded from the LEAP data system used to evaluate programs that this official was responsible for managing.
	Moreover, all data collection forms distributed to school districts by the SED must obtain prior approval for printing and distribution by the Information Center on Education (ICE) to ensure that the information being requested is reasonable and is not already collected by another unit within the Department. The LEAP form is a part of this process annually. The ICE coordinates data compilation for all units of SED.	
	In his letter of April 3, 1981 to Mr. Stuart Graham, Dr. Cohen indicated that Department units "work closely together."	
Pg. 23. "To the extent that there was any use of numbers of actual program participants they were byproducts of the program evaluation system . . ."	SED regards these numbers (and their use) as a substantive part of the accountability system. All information collection forms are reviewed by the ICE thus belying the charges of lack of coordination and apparent duplication of effort. However, in the ongoing SED effort to operate its programs in as an efficient and effective manner as possible, the data formerly collected by ICE has now been made a part of the LEAP data system and henceforth will be collected by the BSCPE.	
Pg. 23. "The numbers, however, do not differentiate between Title I and PSEN pupils, and cannot be used to obtain a head count of PSEN pupils."	This is not true. The form used by the ICE does request from school districts a "total unduplicated count of pupils with special educational needs. . . " (item B on the form) and a "total unduplicated count of Title I participants" (item A on the form).	The LCER audit statement clearly referred to the program evaluation system (known as the LEAP data system) numbers of program participants. SED's claim that the statement is false mistakenly assumes that LCER was referring to another data system. The SED response claims that the LEAP data system contains "on an individual basis, numbers of pupils by funding source. . ." SED uses the term "funding source" interchangeably with the word, "program." On August 21, 1981, the SED Chief of the Bureau of School and Categorical Programs Evaluation affirmed that the LEAP system has not included the program variable since 1979-80 for its individual student data. Thus, there is no system provision for differentiating individual PSEN pupil results from Title I pupil results.
	The ICE has collected gross unduplicated counts of pupils by funding source. The BSCPE obtains, on an individual basis, numbers of pupils by funding source and by grade level and by component (e.g., reading, mathematics). While the former counts may be used in summary statistics, the latter are used in an accountability check with the estimated participants.	

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LCER REPORT	SED RESPONSE	LCER REBUTTAL
Pg. 23. "Staff of the Division of Education Opportunity Programs and the Bureau of School and Categorical Programs Evaluation reported that an unduplicated count did not exist. Through LCER's inquiries, SED staff of this latter unit learned at the same time as LCER staff that the Information Center for Education had obtained an unduplicated count."	For several years the ICE has performed a late spring survey of all local education agencies to determine the unduplicated count of pupils participating in ESEA Title I and PSEN programs. The data collected are the official statistics reported for federal and/or state purposes. In 1982 the unduplicated count data by program will be collected by the Bureau of School and Categorcal Program Evaluation (BSCPE) through LEAP reporting procedures.	This LCER audit statement has already been discussed; no further LCER rebuttal is necessary. It might be noted, however, that since the SED response reports that the numbers of program participants collected by the Information Center on Education represent "the official statistics reported for federal and/or state purposes" and since LCER termed these data "the best available. . .on numbers of pupils participating in PSEN programs," it is unfortunate that the SED response immediately preceding this one reports that these data have not been used in the SED accountability checks with the estimated participants. Again the SED agency response reports that, in the future, the unduplicated counts data will be collected as part of the LEAP data system and not by the Information Center for Education. This is a result of the LCER audit.
Pg. 23. "The numbers derived from program applications have little utility because they are estimates, and not actual numbers served; and they double count students served in two or three program components." Pg. 25. "However, some districts still found SED's program application requirements burdensome."	Estimated numbers are reviewed by subject bureaus since recommended teacher/pupil ratios are specified in the guidelines. These numbers are also used in general program planning, for example, to estimate per pupil costs. "Burdensome" is a judgmental term. The SED believes that an effective program as well as program monitoring is best achieved by a thorough program description so that problems or exemplary programs can be duly noted and acted upon.	The SED agency response fails to convincingly explain the value of numbers that double count and estimate the number of participants. The judgment was made by school districts, and not by LCER staff. However, it is worth recalling the statement made by LCER at the beginning of the chapter on program accountability: "In the case of Title I and PSEN programs, significant staff resources both at SED and in the district have been devoted to the collection of program application and evaluation information. Despite this, SED still lacks appropriate information to properly account for PSEN programs."
Table 3, pg. 24. "Number of Students in PSEN Programs by Subject Matter and Public School District: 1979-80." Pg. 25. ". . . SED lacks a management information system for PSEN programmatic accountability."	The number of pupils serviced under PSEN for each component(s) is reported at the end of the school year. The comprehensive Title I and PSEN application assures more efficient programs for pupils. It did not result in a loss of program identity. The progam evaluation reports collect the number of PSEN pupils in each grade level and remediation area, and the number of contact hours of instruction provided by the program.	The source for this table is the PSEN-1 form entitled "Program Plan for Pupils with Special Educational Needs 1979-80." The plan is submitted at the beginning, not at the end of the school year. The SED response offers assurances that a management information system for PSEN programmatic accountability is in place. As noted previously, the application relies upon double counting and estimated numbers of participants. The monitoring reports referred to in the audit text preceding the statement excerpted by SED do not differentiate between PSEN and Title I programs. Finally, the program evaluation reports lack program results data for PSEN pupils. Given these deficiencies of SED reports, LCER's audit statement would appear a reasonable conclusion.
Pg. 25. The study points out that prior to 1979-80, the State did not require all pupils with special educational needs to be served; therefore districts were free to adjust the number served to match available resources by adopting a local definition of eligibility. The local definition could be used either to reduce or to increase the number to be served.	The interpretation of a local definition is incorrect. The local definition (of children to be served) was to provide school districts relief from strict pupil eligibility participation standards when "1. A school district could demonstrate that all priority-eligible pupils were being served. 2. No dilution of services to priority-eligible pupils would occur. 3. Program quality would be enhanced." Note: "Of more than 700 school districts only two requested and received authorization to implement a local definition. A local definition was not intended to reduce the number of eligible participants."	The SED response implies that the local definition issue was minor because such a definition was only used by two school districts. SED neglects to report that New York City was one of these districts and that based on its local definition had served only those 1.5 years below grade level instead of two years below grade level as required by the State definition. More importantly, SED's response asserts that a "local definition was not intended to reduce the number of eligible participants." In stating this, the SED response deliberately makes it appear as if this repudiates a statement made by LCER staff. The "study" cited in the LCER audit column of the SED response was actually an SED report. This March 19, 1980 Research Report of the Study on Special Pupils Needs states: "A district could use its local definition to limit eligibility if it lacked sufficient funds to address the needs of all pupils who met the State's definition. . ." The SED study and not the SED response offers the accurate interpretation of how a local definition could be used as evidenced by SED's Program Bulletin Number 3 for PSEN programs which states that an: "Approved local definition of special educational needs as alternate to definition in Regulations is necessary to decrease or increase number of participants." (emphasis added).
Pg. 25. "District need is currently calculated on the basis of 1974 and 1975 third and sixth grade PEP results."	The formula cited in Appendix C calculates the amount of funding for a given year, not district need.	The amount of funding for a given year was intended to be based on district need. To define need, the legislation adopted the recommendations of the Task Force on State Aid for Elementary and Secondary Schools.
Pg. 25. "These revisions enabled districts to use PSEN aid to serve all pupils for whom remediation was made mandatory."	LCER implies that all eligible pupils had to be served by PSEN programs. There is no regulation or legislative intent to support this. Districts may still determine who will be served by PSEN programs as long as all those falling below the Statewide Reference Point or its equivalent are served by either local funds, Title I, or additional apportionment State aid (PSEN).	The LCER audit report section on "Estimation of District Need" deals primarily with the adequacy of SED program information for estimating those to be served and for determining how many have been served. The inclusion of Table 4 in that section showing the "Proportion of Estimated Pupils with Special Educational Needs Served by PSEN Programs and by PSEN/Title I Programs Combined" is overlooked in the SED response; this table demonstrates that the audit does not suggest that "all eligible pupils had to be served by PSEN programs."

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LCER REPORT	SED RESPONSE	LCER REBUTTAL
Table 5, Pg. 26. "Alternative Definitions of Eligible PEP Populations by School District Category."	Data presented in LCER's Table 5 do not support the statement. For example, using LCER's lower estimate of PSEN pupils in 1978-79 (262,000 pupils) and the amount of PSEN appropriation for 1978-79 ($73.7 million), the average amount available to serve each eligible pupil is only $281. This is a low figure given the need for remediation in multiple components for many pupils. For example, using this average, if a district had 100 PSEN pupils, the allocation would be about $28,000. Given overhead and fringe, this amount is barely sufficient to hire one remedial reading teacher to serve these pupils. There would be insufficient PSEN funding to support needed remediation in other areas for the 100 pupils.	The audit suggests in numerous places that the definition of an eligible program student was changed so that pupils could be served by PSEN who could not have met the prior PSEN requirements for eligibility. This did not result in PSEN serving more students, but rather serving about as many as it had previously served despite overall improvement in test scores. It also made it possible for the PSEN program to be used to implement SED initiatives reviewed in the audit such as mandated remediation for those scoring poorly on any of the tests used in the competency testing program.
Pg. 27. ". . . those served in PSEN were frequently served not on the basis of performance on statewide examinations, but on standardized examinations with different ones in use from district to district."	Initial statewide exams are given in grades 3, 6, 8 or 9 and 11. As LCER's sample data reveal, most pupils are eligible, based on comparable performance on the standardized tests. Selection for participation may be based on selected approved standardized tests. Standardized tests have been normed on large representative groups of students, and a pupil is apt to make a similar score on more than one test. Test experts agree that NCEs, the usual metric for selection, are comparable across tests. Aggregation of data from different tests for the same subject matter area is acceptable because: 1. The tests measure at least the same variables (content). Examples reading comprehension is reading comprehension whether assessed with C.A.T., S.A.T., or M.A.T. The same statistics are used by all publishers to establish difficulty, reliability and validity. 2. Norms are derived from a nationally representative sample. The aggregate distribution of scores of NYS pupils closely parallels the national norming sample distribution. 3. Aggregation is done through NCEs, a common metric. 4. The assessment of instructional impact is a question of gains or losses relative to a pretest benchmark. 5. All approved norm-referenced tests used in NYS have to meet nationally recognized standards.	The SED response is an attempt to dismiss the LCER audit finding that: It is impossible to accurately determine if pupils served by the PSEN program are those who should have been served. While the PSEN enabling legislation defines PSENs in relation to statewide tests, such tests are not administered in every school grade. Therefore, districts usually employ other standardized tests to determine PSEN eligibility. However, SED has not developed a reliable way to equate statewide tests with standardized ones and therefore, cannot assure the Legislature that the PSENs served were the ones intended to be served. Regardless of the assurances contained in the SED response that ". . .a pupil is apt to make a similar score on more than one test," SED is unable to demonstrate that this is so. Instead, SED has relied on establishing equivalent points judgmentally. As noted, only one study had been undertaken that could be used to determine an equivalent point between a single statewide and a single standardized test. In an April 4, 1980 memo to school districts, the SED Assistant Commissioner for ESC Education Planning and Support Services announced that SED would undertake a comprehensive equating study: The Department is undertaking a score equating project to meet reporting requirements for the evaluation of federally aided programs. This score equating project is needed to develop the normal curve equivalents (NCE's) required for Federal reporting purposes. These NCE's will be derived by equating scores obtained on the Department-prepared tests and scores obtained on appropriate nationally normed tests. . .Some districts will be called upon to cooperate in providing scores that may be used for equating purposes by the Division of Educational Testing during the current and/or next school year. The project was never undertaken leaving SED undocumented assertions to support its claim that these tests can be used interchangeably to determine PSEN pupil eligibility.
Pg. 27. "Although SED was unable to furnish data on system costs, it is usually more costly and time consuming to collect information in this way." (individual pupil data)	This is a judgment made by the LCER for which they provide no substantiation. In fact, the system provides more reliable information and reduces the computation burden placed on districts.	In a May 1, 1974 response to an LCER program audit of college compensatory education programs similar to PSEN and Title I, SED argued against the collection of individual pupil data for a much smaller number of program participants than are in the PSEN/Title I programs. One of the reasons for this position was SED's assertion that: "even the gathering in the field of the data we regularly request [summary data] results in considerable clerical overhead, for which we do not pay." This affirms the then predominant SED view that data collection on an individual pupil basis would prove more costly than the collection of summary data. As to the claim that "the system provides more reliable information and reduces the computation burden placed on districts," LCER has previously reported that districts found the work expended to be burdensome and fruitless because of either a lack of feedback or, at best, delayed feedback of LEAP data by SED. In addition, LCER must challenge the claim of reliable data since SED was unable to furnish LEAP data on pupil performance for three of 11 districts surveyed. Over one-third of pupil pretest/posttest data in the remaining districts were missing.
Pg. 27. "Other SED information systems do not rely on individual student data files."	This is false. Individual data must be collected by the districts in order for districts to compute group statistics. The Office for Education of Children with Handicapping Conditions collects information on individual pupils. The program for migrant pupils is part of a nationwide individual pupil data collection system for which the pupil identifier remains the same no matter where the student travels in the United States.	The LCER audit statement pertained to other SED information systems relying on summary data; while the SED response speaks in terms of other programs that do not use summary data. The programs cited are part of the LEAP system; the fact that this system included the participants of other programs was noted in the audit. Moreover, the audit also identified several other SED information systems that rely only on summary data including the one in use for HEOP--a college remedial education program. The LCER audit was not advocating collecting only summary data; the audit did report that a sampling approach to collecting individual pupil data would have been less costly and could have allowed inclusion of more comprehensive evaluation data.

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LCER REPORT	SED RESPONSE	LCER REBUTTAL
Pg. 28. "The system has not included the program variable since 1979-80."	In his letter [illegible]ril 3, 1981 to Mr. Stuart Graham (LCER), [illegible]n indicated that "Program information such as [illegible]oject staffing, contact hours, pupil achievement and instructional activity is routinely collected [illegible]art of our evaluation reporting process. The information collected . . . is limited to that which is required to assess pupil achievement. . . . The Department has been promoting the concept of comprehensive planning for the evaluation of programs for the past four years . . . Our purpose was to eliminate duplicative efforts to evaluate a variety of funded programs and to make evaluation more meaningful and useful for school districts as well as the Department. The data collection forms which we use reflect this philosophy." Finally, the statement is contradictory to the last sentence on page 65 of the report. "This study has demonstrated that . . . SED has required much program information to be reported by school districts . . ." Numbers of pupils served by grade level and subject are provided by funding source. When pupils are served by multiple programs in the same content area, it is unfeasible to ascribe gains to particular sources.	SED does not dispute the fact that the individual pupil data collected to assess pupil achievement (i.e., pretest/posttest results) cannot be used to determine program results because of the lack of inclusion of the program variable. SED was charged with developing an information system to evaluate programs. If pupil achievement cannot be readily related to program, then the system has not complied with PSEN results reporting requirements. The SED response also appears to repudiate the need for program identification within the LEAP evaluation system by asserting that: "When pupils are served by multiple programs in the same content area, it is unfeasible to ascribe gains to particular sources." This comment is related to another SED response comment in which it is claimed that "there is considerable overlap between programs, subject and grade levels in LCER's own sample." An analysis of the 11 districts shows that in seven, 50 percent or more of the grades in which Title I or PSEN remedial reading and/or mathematics was provided did not involve overlap; in six of the 11, there was no overlap at all. Thus, the typical situation does not include multiple programs in the same content area as claimed by SED.
Pg. 28. ". . . the value of this system (LEAP) for longitudinal studies is limited by the exclusion of student outcome information and by the fact that comparable time series data can be secured for only 1979-80 and 1980-81 . . . There is increasing interest in the sustaining effects of compensatory education programs. Yet, LEAP cannot fully respond to those concerns."	This statement is false. Student outcome information is the essence of the LEAP system in that it provides information on pupil performance, based on criterion-referenced, norm-referenced test results as well as other measures of pupil growth. Comparable information is available prior to 1979-80. It is SED's contention that the system is responsive to sustaining effects information. Student outcome information is included in the system - 1. Student progress/achievement from pretest to posttest 2. Graduating from program or otherwise leaving 3. Student grade level Additionally, the LEAP system will be able to provide time-series analysis for a 4-year span.	In a July 7, 1981 letter and an August 21, 1981 letter to LCER, SED's Chief of the Bureau of School and Categorical Programs Evaluation reports that while LEAP data on an individual pupil basis were introduced in 1976-77, it is only since 1979-80 that no major or minor changes were made in LEAP formats. As to the SED statement that "student outcome information is included in the system," it is not included by program. As with other aspects of LEAP's individual pupil achievement data base, the link to program is absent. The SED comment that "the LEAP system will be able to provide time series analysis for a 4-year span" applies to June 1983 at the earliest and that would be without benefit of knowing which program(s) had served pupils over the four-year period.
Pg. 28. ". . . a sampling approach to individual student records could secure more complete and useful information for less cost than is currently available from LEAP."	If the evaluation process is useful as a source of information for instructional management, the assessment of every pupil's progress is essential for individualization of instruction. Missing data is a serious problem under any condition; with sampling, the current rate and patterns of missing data would probably make it impossible to generalize the results. Most importantly, if the sample is changed from year to year, all possibilities for longitudinal analysis are lost; if the sample is not changed, some school districts will carry a disproportionate reporting burden. Whenever a sampling procedure is used, the sampling unit must be determined: should the sample be selected on the basis of individual pupils, classrooms, grades, subject areas, buildings, districts? Each has distinct disadvantages and limitations.	The SED response argues for the collection of LEAP data on all students in remedial programs rather than a sampling approach because "...the assessment of every pupil's progress is essential for individualized instruction." This is true, but is no justification for LEAP not using a sampling approach since LEAP data have never been used for individualized of instruction. How could they be since in the past they have only once been returned to the schools and that was too late for their use. The SED response makes the related point that "LEAP data are district data" in arguing that their untimely return by SED does not matter. While they are district data, they are also collected according to a format prescribed by SED which was not found useful by some districts. Further, the fact that districts only supply individual pupil data without their aggregation left districts without the comparative perspective needed for individualization of instruction or for overall evaluation. LEAP data rely not on pretest/posttest scores alone but also on comparisons of one pupil's or group's test results to those of others. The SED response points to decisions that would have to be faced if sampling were to be adopted. Sampling techniques are available to overcome the obstacles SED insists on introducing. SED states: "Most importantly, if the sample is changed from year to year all possibilities for longitudinal analysis are lost; if the sample is not changed some school districts will carry a disproportionate reporting burden." This obstacle assumes that only a single year's data would be collected as is currently the case. This approach to data collection is what was criticized in the audit for limiting the utility of the system. It is possible to shift the sample districts, buildings, etc. and collect sufficient data for a small sample to adequately assess long-term program results.
Pg. 28. "School districts were required to devote much paperwork, manpower and time to fill out LEAP forms for SED."	School districts are not required by SED to fill out LEAP forms on paper since the data are required to be submitted to SED on computer magnetic tape. In fact, one of the main strengths of the LEAP system is to reduce "paperwork" since much of the pupil performance data can be placed directly on computer tape by modern machines which score the pupil tests. This not only reduces the manual transcription of information but also reduces the number of errors in reporting.	The SED response leads to the false belief that paperwork has been eliminated. Most districts transmitted manual coding sheets to the BOCES regional computer centers for conversion to magnetic tape. Moreover, as SED must know, the term, paperwork, is not rendered inappropriate because it is reams of computer tape being collected rather than pieces of paper. The data do not transfer themselves automatically from the files to whatever data worksheets are used.

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LCER REPORT	SED RESPONSE	LCER REBUTTAL
Pg. 29. ". . . one district had to develop information that duplicated the LEAP data . . ."	LEAP data are district data. Any duplication is without merit or necessity.	This point has been the subject of prior LCER rebuttal.
Pg. 29. ". . . one center in Onondaga County developed a more efficient form for data collection than SED's. . ."	The statement is judgmental. The form developed by the Central New York Regional Computer Center elicits the same data as the SED form and the computer tape formats for the two forms are identical.	The SED form requires that each pupil's data be entered on a separate sheet requiring more paper and endless entry of the same data points. The form developed in the BOCES allows data for numerous pupils to be entered on the same sheet and thus allows "arrows" or "ditto" marks to be used where repetitious data are required.
Pg. 29. "Intended utilization of LEAP system results has been limited to SED and more recently to districts."	Use of evaluative data from the inception of the PSEN program has been to improve the effectiveness of the educational system in order to improve pupil performance. Data usage has not been intended solely for SED; in fact, it is intended that a school district is the primary consumer of the information.	In a July 7, 1981 letter to LCER, SED's Chief of the Bureau of School and Categorical Programs Evaluation reported that: "...the primary intent in the design of the LEAP information system did not include providing feedback of evaluation results to all school districts..." In an August 21, 1981 letter, the same official wrote: "In response to your request for summary reports that were developed from LEAP data these have not been published for distribution beyond SED offices; they were intended for internal use." The examples of data sharing cited by SED are of recent vintage or refer to a brief newsletter of only general interest that offers no substitute for the LEAP summary reports, themselves.
Pg. 29. "SED has not prepared reports for distribution to others concerned with the effectiveness of compensatory education programs . . ."	Although this is not required in the legislation relating to the PSEN program, summary reports of the effectiveness of compensatory programs have been prepared and distributed. SED prepares reports as requested and within the limits of feasibility, e.g., the recent Assembly Hearing (11/81) on Remediation. In addition, results of programs are published in the BSCPE's "Evaluation Newsletter." Results are disseminated to the districts via the Evaluation Specialists Program.	
Pg. 29. "The fact that the system has limited utility cannot be dismissed by SED, for its data elements were determined by that agency."	Given the state of the art of measurement, LEAP provides excellent data. In no way does SED affirm "limited utility." Persons familiar with measurement problems are aware that specific effects should not be ascribed to specific funding, e.g., PSEN when multiple compensatory programs are operative. This is not the primary argument used by SED. The major point in the quotation on page 29 is that the program variable is "an unrealistic indicator."	Given the omission of the program variable and the data elements not included in the LEAP system there is no other conclusion possible except that the system has limited utility.
Pg. 30. "PSEN and Title I programs usually provided remedial services in different subjects or in . . . different grades."	This statement is false. Using LCER's own sample of 11 districts, it was found that out of the PSEN pupils reported on the 1979-80 LEAP report: (a) in reading, out of 6910 PSEN participants, there were also 6337 Title I participants at the same grade levels, an inter-program overlap of 66% in reading. (b) in mathematics, out of 4032 PSEN pupils, there were also 2941 Title I pupils at the same grade levels, an inter-program overlap of 73%. (c) considering only the PSEN program and the reading and mathematics components, out of 6975 PSEN pupils in reading, there are also 3966 PSEN pupils in mathematics in the same district grade levels, an intra-program overlap of 78%. Obviously, there is considerable overlap between programs, subject and grade levels in LCER's own sample. Moreover, the LEAP system clearly allows distinctions between PSEN and Title I. These facts are contrary to the allegations in LCER's report.	SED asserts that: "there is considerable overlap between programs, subject and grade levels in LCER's own sample." To demonstrate this, SED lumps all pupils in the districts sampled together. This is inappropriate since the sample was of districts and not of pupils. If the overlap or lack of overlap is considered on a district by district basis, then six of 11 districts had no overlap and one other was without overlap for most grades in which its Title I and PSEN remedial reading and mathematics courses were offered. More importantly, the fact that lumping does exist at all is a function of SED's approach to unification which failed to protect program identity sufficiently to insure accountability.
Pg. 30. "In its review of the case study district, LCER staff found that district program organization usually allowed a distinction to be made between PSEN and Title I programs."	This statement is based upon the eleven districts chosen by LCER. These districts are not representative of the State of New York since New York City was excluded from the study. Were the eleven districts chosen as a result of a sound sampling plan and, if so, what was the sampling procedure? An assessment of the effectiveness of the program statewide must include the variation in program organization. Does LCER intend that only those districts which adhere to a particular administrative organizational scheme be included in the evaluation of the program statewide? If so, the analyses generated from the data may be biased.	The reasons for excluding New York City and the method of sample selection were included in the audit on page 9. It was also noted on that page that another ongoing study's findings for New York City parallel the audit's findings for districts outside New York City.
Pg. 30. "Legislative intent requires school districts to report on PSEN program effectiveness and SED's rules and regulations affirm this requirement. The use of the LEAP system since 1979-80 to fulfill this mandate is viewed as insufficient compliance with legislative intent."	There has been full compliance with legislative intent. P. 1019, Laws of NY, 1974, section 3602, subdivision 10a. states ". . . and such regulations (Commissioner's) shall also include annual district reporting requirements which shall require . . . an evaluation of the results obtained . . ." Commissioner's Regulations 149.6(c) specifies "an evaluation of the results obtained from the operation of such programs." With respect to effectiveness, statewide aggregations of achievement on the part of the target population were reported in the areas of reading and mathematics.	The LEAP system has limited utility for filling legislative reporting requirements for PSEN for the reasons already stated.

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Pg. 30. "A year of growth represents much more learning at grade four than at grade eight."	Performance of a pupil on a test is not synonymous with learning. To compare "learning" at grade four with "learning" at grade eight is not helpful.	The SED response has little to do with the main objective of this section of the LCER audit which was to demonstrate "the types of information that could have been assembled for PSEN students, but are only available for a composite of students receiving remediation through federally or State aided compensatory education programs."
Pg. 32. ". . . An individual scoring at a given percentile on one test will not necessarily score at the same percentile on other tests because they may measure different traits."	If one test is a measure of a pupils performance in mathematics and another test measures reading comprehension, then the scores would be expected to be different since the instruments "measure different traits." However, most test publishers produce instruments which are a measure of pupil performance for the subject content (trait) being tested (e.g., mathematics computation). It is likely that a pupil will obtain a similar percentile score on well constructed standardized tests measuring the same traits. A gain of one NCE on any test is comparable to a gain of one NCE on any other test. The NCE scale is linear and is independent of the test. It is one reason why the scores on this scale can be used with parametric statistical procedures.	The SED response asserts that measuring the same content (i.e., reading or math) is equivalent to measuring the same traits so that: "It is likely that a pupil will obtain a similar percentile score..." on "standardized tests measuring the same traits." Furthermore, SED argues that when NCE's are the unit of measure: "A gain of one NCE on any test is comparable to a gain of one NCE on any other test." As previously reported, SED has failed to undertake the studies to demonstrate that these points are valid. While it did not follow through with the equating study announced to the districts in April 1980, it did state that such a study was needed "in order to develop the normal curve equivalents (NCE's) required for Federal reporting purposes. These NCE's will be derived by equating scores obtained on the Department-prepared tests and scores obtained on appropriate nationally normed tests." At that time apparently, SED recognized the need to ground NCE's in an equating study rather than claim that NCE's are independent of the diverse tests in use.
Pg. 32. "This study has demonstrated that although SED has required much program information to be reported by school districts, there are major gaps in program accountability."	SED does not agree with LCER's conclusion that its study has demonstrated major gaps in program accountability.	The facts presented in the audit support LCER's conclusion.
Pg. 33. Table 7 "Average Posttest-Pretest Gain in Normal Curve Equivalents for Reading and Mathematics for LCER's District Survey by Grade Level, 1979-80."	Using LEAP data logs, it was determined that the reading and mathematics NCE gains reported in Table 7 of the LCER report could be classified as (1) all pupils in PSEN, (2) all pupils in Title I, and (3) pupils in either or both. There were 106 gain-scores reported in Table 7. Combining the reading and mathematics results, the following emerged:	It is noteworthy that to differentiate PSEN from Title I pupil achievement, SED had to go beyond the LEAP data system to data logs not included in the system content or outputs. This verifies the lack of programmatically differentiated achievement data in the system. Once again, SED lumps all pupils in all districts in its analysis. This approach contradicts the admission in another part of the SED response that reading and mathematics tests measure different traits. This also tells little about how effective sampled district programs were. Finally, the analysis assumed that these data (even when derived from tests measuring the same trait) are comparable. In the absence of equating studies, this assumption cannot be validated.

	ONLY PSEN	ONLY TITLE I	MIXED
# of Gain Scores	37.0	27.0	40.0
Mean (Unweighted)	10.0	9.5	9.0
S.D.	9.4	3.9	7.1

There are no statistically significant differences among these three categories. Therefore, it does not matter whether distinctions can be made between PSEN and Title I pupils. In the aggregate, they gain about the same and the gains are substantial.

Pg. 33. "SED's position is that these gaps are filled at the school district level. For example, in response to an LCER question on the lack of feedback of data from the LEAP system to school districts, SED discounted its importance because of the system's limited program information."	SED is not discounting the "importance because of the system's limited program information." SED is saying that there are many sources of information important to a school district and that SED expects districts to use all available information for decision-making. For this purpose a series of regional workshops are conducted statewide.	No LCER rebuttal is necessary.
Pg. 34. Letter to LCER from Brentwood Coordinator of Federal Projects. Footnote 22 in LCER Report.	This quote from a local Federal Projects Coordinator does not refer to PSEN or any state-funded project. Using LCER's own standards of separation of PSEN and Title I, this letter is entirely out of place in this report.	Note that in a subsequent comment, SED excludes Brentwood from its analysis of Table 8 of the audit citing the contents of this letter as its reason for doing so.
Pg. 34. "The finding caused LCER to question the reliability of the . . . participant counts."	There are several "counts" of pupil participants obtained by SED; each are used for program management and monitoring. Each count serves a specific purpose and need. a. Estimated count of PSEN eligibles based on PEP test results. Provides each district's amount of additional apportionment state aid with weighting formula. b. Projected number of participants in each program (Title I or PSEN) and each component (e.g., reading, mathematics, etc.) as submitted by each district in annual application. c. Unduplicated counts of participants in each program after school year begins as reported to ICE (Information Center on Education). d. Counts of pupil participants in each program and component at the end of each school year as reported on LEAP evaluation report.	The SED response statement that should be stressed is: "Each of these counts is quite reliable, given the source, data base and time of year." SED suggests that the disparity among these counts "reflects the continual state of flux inherent to educational programs, due to, for example, pupil transiency." It is apparent from these comments that SED has demonstrated little concern for the data discrepancies and unreliable information available on the PSEN program. As previously reported, of these data sources the most reliable, the unduplicated counts, have not been used in the program's administration. Moreover, Table 8 of the audit demonstrates that even this data source's reliability can be questioned.

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	Each of these counts is quite reliable, given the source, data base, and time of year. The counts should be expected to differ from one another since this reflects the continual state of flux inherent to educational programs, due to, for example, pupil transiency. There is no support for LCER's allegations that pupil counts are unused or unreliable.	
Pg. 34. Separate Counts of First Time and Continuing Participants.	The LCER report suggests that SED should collect and maintain separate counts of "first-time" and continuing participants. The following are germane to this point: a. Such a distinction is unnecessary since a newly-enrolled "first-time" pupil may be a "continuing" pupil from a former district. b. LCER itself found this information "was usually unavailable" from school districts. In instances where it could be provided, it required "special tabulations," at considerable added cost, relative to its value. c. There is nothing in legislative intent to suggest the necessity for such a distinction.	SED's response attempts to dismiss the need for separate counts of first time and continuing participants by asserting that: "There is nothing in legislative intent to suggest the necessity for such a distinction." Legislative intent requires that district reporting include "the identification of such pupils." Moreover, the rules and regulations promulgated by SED to implement the enabling legislation have from the beginning included a distinction in the eligibility requirements used for first-time and continuing students. Since such regulations are an extension of legislative intent (when they do not contradict enabling legislation), it follows that reporting requirements for the program should have included this important distinction. In the October 10, 1980 audit of the New York City PSEN program, the issue of eligibility criteria for first-time versus continuing students surfaced in the SED response to the audit's finding that New York City was serving ineligible students because it had applied the guideline intended for continuing students to first-time students.
Pg. 35. Table 8, "Comparison of number of PSEN Participants Reported to SED and to LCER, 1979-80."	In Table 8, LCER presents a comparison of the number of PSEN participants reported to SED and to LCER for the 11 sample districts, and alleges that these data "question the reliability of the counts." Such a conclusion is totally unsupported by the data in Table 8. In fact, just the opposite is true. The correlation between SED's counts and LCER's counts is astounding -- .98 using 10 out of 11 sample districts. This demonstrates that SED's counts, as independently verified by LCER, are highly reliable. (Brentwood's district counts were not included since the LCER citation from the Brentwood Federal Projects Coordinator's letter reveals that its internal data management system is not up to the task of supplying reliable data.) In addition, when the PSEN participants count in remedial reading components as reported on the LEAP evaluation report are used, the correlation of pupil counts between LEAP and LCER is .99. These findings confirm the various counts to be highly consistent, and contrary to LCER's allegations.	In its analysis of Table 8, SED has excluded Brentwood--a district with a 272 percent difference between the participant counts reported to SED and to LCER and has lumped all other districts. This ignores the fact that the LCER sample was of districts, not of participants, and that even excluding Brentwood, the percent differences in these districts ranged from under two percent to 189 percent. This hardly represents "highly consistent" and "highly reliable" counts as claimed by SED. Moreover, in its response, SED inappropriately applies the basic statistical concept used to attempt to dismiss LCER's finding. A product-moment correlation coefficient simply measures the amount of spread about the linear least-squares equation. It says nothing about the accuracy of the two sets of numbers. For instance, if the true number of participants in three districts were one, two and three, but the numbers reported to SED were one million, two million and three million respectively, the correlation would be a perfect 1.0.
Pg. 36. "For each student LCER requested (from their sample districts) information concerning: – year of first eligibility – basis of eligibility – pretest results – PSEN program exposure – posttest results – program student outcome (i.e., graduated, promoted, continued in program, etc.). This information is required in a comprehensive program management and evaluation system."	All the data listed (except for year of first eligibility) are collected though the LEAP system. The contention that "posttest results tell little without pretest results" is correct. Cases of missing pretest data cannot be blamed on the LEAP system. It requires that both pretest and posttest results be submitted. Missing pretest scores are most often due to the fact that the child was not present for the testing.	As defined by LCER, the basis of eligibility is not included in LEAP. The audit's Table 9 showed the missing eligibility data for the LCER district sample. The same is true of PSEN program exposure. The LEAP system does not include information on whether a given student was in the PSEN program as shown in Table 10 for the LCER district sample. As for program student outcome, the LEAP system cannot produce all the data shown in Table 11 for the LCER district sample.
Pg. 36. ". . . no district information was directed at longitudinal results."	Some New York State districts have conducted studies with longitudinal results; all are required to do at least one such study of sustained effects under ESEA I. This LCER reference should read "No sample district was directed at longitudinal results."	No LCER rebuttal is necessary.
Pg. 37. "It can be seen that statewide tests seldom serve as the basis of eligibility for students that were served."	The fact that only 40% of the children are judged eligible for PSEN by means of statewide tests is perfectly understandable. There are no statewide tests for grades K, 1, 2, 4, 5, or 7 and no statewide mathematics test for grades 9 and 10. All children in these grades must be selected by equivalent criteria on other standardized tests. Nationally normed tests represent valid and reliable criteria for such selection.	LCER has previously responded to the claim of this SED response. However, it should be noted that Table 9 demonstrates that the basis of initial eligibility for some PSEN pupils was neither statewide nor standardized tests, but teacher referral.
Pg. 38. "The eligibility basis is not part of SED's LEAP information system."	This is not universally true. The pretest results reported in the LEAP system supercede the need to require an eligibility basis.	The SED response claims that since pretest scores are available in the LEAP system, it is unnecessary for the system to also include the basis of eligibility. This contradicts an earlier SED response claiming that this item of information is a part of the LEAP system. As to the assertion that it is unnecessary, this again reintroduces the SED argument that one test is much like another and comparable scores can be expected to be achieved. LCER has already responded to this assertion. It should be pointed out that the diversity in the tests used as pretests for special programs by districts far outstrips the diversity of even the standardized tests in use to assess overall pupil achievement. Accordingly, the equating problem is even greater.

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Pg. 40. "Limited sharing and/or awareness of program information was evident among the SED units involved in the PSEN program."	The LCER statement is misleading at best and generally unsupported.	LCER has already responded to this SED conclusion.
Pg. 40. "Despite burdensome district reporting requirements invoked by SED, it lacks sufficient information to account for PSEN programs -- a result of lumping Title I and PSEN data."	"Burdensome" is a judgmental term. SED has sufficient information to account for PSEN programs.	LCER has already responded to this SED conclusion.
Pg. 40. "The SED program evaluation information system was deficient. In part this results from lumping results for PSEN students with those for Title I pupils. Since both legislative intent and SED's rules and regulations require PSEN effectiveness reporting, use of a program evaluation information system which lumps PSEN with Title I must be viewed as noncompliance or insufficient compliance with intent."	SED disagrees with LCER's contention. There is full compliance with legislative intent in the programs evaluation system.	LCER has already responded to this SED conclusion.
Pg. 40. "SED program evaluation information was not reported to districts prior to 1979-80. In 1979-80 SED information was made available too late to be used in district program planning efforts. The availability of usuable SED program evaluation information varied widely among the 11 districts surveyed and resulted from SED and district reporting problems."	SED began returning analyses to local districts in 1979-80 on a pilot basis. Due to an overwhelming positive response, SED is continuing this practice.	No LCER rebuttal is necessary.
	CHAPTER IV FISCAL ACCOUNTABILITY	
Pg. 41. The Report describes how the ST-3 lumps expenditures of state aid and local revenues. Further, the Report strongly implies this is incorrect and that, because of it, the Department is not receiving a report of expenditures.	It is unacceptable to imply that expenditures of state aid and local tax revenues are to be separate. This is foreign to the distribution of state aid in New York State - all General Aid, not just PSEN aid. That no such separate accounting is required is not only the position of the SED in all general expenditure areas, but is supported by the State Comptroller's Uniform System of Accounts. It has long been held that once state aid payments reach a local district they become local revenue - for use for all legal purposes, in this case for educationally advantageous programs for pupils with special educational needs. When districts receive state aid (including PSEN Aid) it is received into the General Fund. Districts do report program expenditures; what they do not do is distinguish between state aid and local contribution as source of funds expended. There is no requirement to make this differentiation, and indeed, there is no purpose in doing so. As long as a district spends at least as much as the aid received for the purpose intended, they are fulfilling their obligation. (The local share can well be described as the difference between state aid and total amount expended.)	The SED response does not disagree with the LCER finding that the ST-3 reports lump expenditures from State aid with expenditures from local funds. It does disagree with the LCER conclusion that this represents non-compliance with legislative intent. In SED's view: "There is no requirement to make this differentiation, and indeed, there is no purpose in doing so." The language of the enabling legislation contained on page 2 of the LCER audit requires reporting of expenditures from the State aid apportionment and reductions for unauthorized expenditures. If districts are not required to separate spending by fund source, it is impossible for SED to determine if districts are spending State aid "in accordance with the Commissioner's regulations," or to determine if any district is making unauthorized expenditures. Any district which has spent local funds on its PSEN program can contend, quite legitimately, that any alleged unauthorized expenditures in the program were from local, and not [illegible]
Pg. 43. Reference Footnote 2. The Report states "As to the local expenditures lumped with those from PSEN State aid, SED's study shows them to be an incomplete accounting of local compensatory 'effort'."	There is the implication that this represents poor management of the PSEN program. The Report must also state the purpose of that SED study, and that, indeed, districts were (are) making even further expenditures for compensatory programs than we know of at the state level. The study finding actually implies positive efforts, rather than negative effect, as implied in this Report. (LCER)	SED does not deny the fact that neither the ST-3 report, nor any other data source, includes all the local funds spent on PSEN programs. In fact, the SED study explicitly states: "...districts may try to avoid red tape and not report program expenditures which might be subject to regulatory interpretation and acceptability." LCER is neither criticizing nor defending the amount of money local districts spend on their PSEN programs. It is simply reporting that the ST-3 report is an incomplete accounting of local compensatory education effort.
Pg. 45. "Neither the districts nor SED could determine where PSEN funds had been spent. A staff study conducted by SED personnel for the N.Y.S. Task Force in Equity and Excellence in Education came to the same conclusions."	Historical Context. It is necessary to provide a brief historical perspective of the PSEN Study so that one understands why certain decisions were made. The Study's purpose was to provide the New York State Special Task Force on Equity and Excellence in Education the most appropriate weighting for students with special educational needs. The Study began in May of 1979 and the final report was issued in March of 1980. LCER has misread the PSEN Study and the accounting practices of districts. Section 3602, subdivision 10a, of the Education Law requires only a statement describing the expenditures of the preceding year's apportionment. Thus, forms such as the ST-3, require only that districts justify their PSEN aid payment; State forms do not provide program budgeting. Districts, therefore, show all of their PSEN aid and enough of their local expenditures to justify PSEN aid. The Study's concern with the present accounting system was that it does not provide a mechanism for the easy identification of	The first portion of this SED response has already been answered in the last LCER rebuttal statement. The SED response states that: "District expenditures may exceed PSEN aid but this does not indicate that districts cannot account for PSEN aid." This response does not nullify the fact that SED has no way of knowing when expenditures were made from State aid for districts that report any local spending on the program. With reference to whether or not the study justified a PSEN weighting of .35, SED must assume "that the expenditures reported...were accurate..." in the absence of ongoing reporting requirements that would have made the special study effort unnecessary.

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	the local cost to a district in providing remedial services. This concern is quite different from the concern expressed by the LCER. Therefore, the SED has complied with legislative intent and has adequate guidelines. District expenditures may exceed PSEN aid but this does not indicate that districts cannot account for PSEN aid. This finding shows that districts spend more on PSEN programs than they receive in aid. Indeed, since aid is distributed under a formula in which the State shares in the cost of education, a district's expenditures should be greater than its aid. Only if the PSEN program were fully supported by the State would it be expected that expenditures should equal state aid. The Study could have analyzed district expenditures for either the 1978-79 or 1979-80 school year. The 1979-80 school year was chosen because it was the first year in the implementation of new Regulations of the Commissioner requiring remedial assistance be provided all pupils scoring below designated reference points on various State tests. Because the Study was concluded before the end of the school year, any comparison to the ST-3 was impossible as this document is not filed until after the conclusion of the school year.	
	Specific Comments LCER's conclusion that the Study did not justify a PSEN weighting of .35 is in error. Weighting certain pupils means there is *an* extra cost to districts for providing programs to such pupils. Assuming that the expenditures reported to us were accurate, then whether these expenditures were higher or lower than a State form (be it the PSEN-10 or ST-3) had absolutely nothing to do with the weighting of such pupils. The weighting of .35 was recommended because the expenditures reported by the districts showed that an average of the per pupil cost of providing programs for pupils with special educational needs was 37 percent greater than the per pupil cost of all other programs.	
Pg. 48. "SED had stopped using a per pupil expenditure ceiling as a control tool during 1979 to allow districts more flexibility."	This is false. During program application review and field-monitoring, a cost per pupil range is assessed. The acceptable range is $300.00-600.00 per child. Circumstances peculiar to the school district or proposed program may result in an acceptable per pupil cost reasonably below or above the range. Should a per pupil cost significantly exceed the range, the school district must be able to demonstrate that all eligible pupils are being provided remedial instruction services appropriate to their needs regardless of funding source -- federal, state, or local -- or that it is a high first instance cost which will be significantly reduced in subsequent years, such as purchase and installation of computer assisted instruction equipment.	In a November 4, 1981 letter to LCER, the Director of SED's Division of Education Opportunity Programs stated that the PSEN per pupil expenditure requirement was an: "...internal policy requirement...and was operative during the school year of 1974 through 1978. The $150-$400 per pupil expenditure cost standard was the basis around which PSEN programs were planned and negotiated. With the creation of the Division of Education Opportunity Programs in 1979 this standard was phased out to allow districts maximum fiscal flexibility in designing comprehensive remedial programming utilizing local, state and federal funding sources."
	Other General Comments The Report confuses the issue of: General vs. Categorical Aid. LCER seems to be able to take both sides of the categorical vs. general aid question. On page 5 the report states that "PSEN was intended to be operating aid," and criticizes the SED program office for administering it as though it was categorical. On the other hand SED is repeatedly criticized for not forcing a detailed categorical expenditure report on school districts. The first point of the Chapter summary (repeated in the audit summary) states flatly that "District expenditure reporting to SED is not in compliance with legislative intent because SED allows local spending to be lumped with expenditures from State Aid." Actually, districts have been encouraged to use local funds for PSEN in addition to state aid, both to show local commitment and to cover possible program exceptions that might be taken. A formalized separate accounting of state aid and local expenditures is not required elsewhere in the ST-3 and has been considered unnecessary with PSEN. The clear mandate of the legislation is to show that PSEN aid was expended completely and properly and there is not intent in the law for a detailed and exclusive accounting of PSEN expenditure to the State.	The finding that PSEN aid is operating aid derives from the fact that it is not subject to prior approval. This fact is admitted by SED elsewhere in the response despite its attempt to project the image to school districts that prior approval was necessary. The reporting requirements contained in the enabling legislation cannot be ignored; nor can SED's noncompliance with the reporting requirements. SED states: "A formalized separate accounting of state aid and local expenditures is not required elsewhere in the ST-3 and has been considered unnecessary with PSEN." This overlooks SED's own development of a separate form to account in detail for PSEN which it then failed to implement as an expenditure reporting form. Fiscal accountability has been neglected for the PSEN program. SED asserts that: "LCER's after-the-fact interpretation of 'legislative intent' is therefore influenced toward maximizing the categorical possibilities of PSEN legislation rather than the general aid approach which SED has consistently considered to be less burdensome and more beneficial to school districts, and more realistic in terms of SED program and fiscal monitoring resources. The Department of Audit and Control has supported this approach."

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	Much of the report is an allegation that the PSEN program did not, from the start, have highly structured, carefully defined, arbitrarily imposed requirements that limit local district options while imposing complicated and expensive recordkeeping and reporting which do make an audit relatively simple. LCER's after-the-fact interpretation of "legislative intent" is therefore influenced toward maximizing the categorical possibilities of PSEN legislation rather than the general aid approach which SED has consistently considered to be less burdensome and more beneficial to school districts, and more realistic in terms of SED program and fiscal monitoring resources. The Department of Audit and Control has supported this approach.	This assertion is ironic in light of:
	It is the contention of the LCER that the present accounting system primarily identifies only the local expenditures of a district and does not really identify how state aid is used. From this it was concluded that allowing local spending to be "lumped" with state aid expenditures does not comply with the intent of the legislature and reflects the inability of districts to account for PSEN expenditures and the inadequacy of SED guidelines.	--SED's attempt to invoke prior approval; --SED's reporting requirements, although viewed by the districts as being burdensome, fail to provide programmatic and fiscal accountability; --SED's prior claim in the response that its monitoring was more than adequate; and --The Department of Audit and Control's audit of the PSEN program in New York City which demonstrated little agreement with program operation.
	The SED does not accept that, because LCER has determined that district expenditure reporting is inadequate for LCER purposes, SED guidelines for accounting for PSEN aid are also inadequate.	Finally SED states: "...LCER staff was disappointed that more districts have not been penalized by deduction of PSEN Aid." The LCER audit finding was focused on why this was so: "This results from the difficulty in determining eligible program services, limited program monitoring and the emphasis SED has placed on not allowing districts to lose funds because of underreporting their expenditures." The audit reports that to avoid aid loss through underreporting, SED had in past years urged school districts to expand the number of PSEN participants by admitting pupils into the program who did not meet SED's own established eligibility requirement.
	The report emphasizes the availability of a detailed fiscal form (PSEN-10) and its uses for budgeting but not for reporting expenditure. The PSEN-10 was created at program office request as a program tool. The extent to which the form is used is, therefore, a program office option. Since the ST-3 breakdown of Code A-2270 is considered by SED to meet the fiscal requirement of Section 3602, the added detail the PSEN-10 can provide is superfluous.	
	A study of Chapter IV, its Summary, and the general summary leaves the strong impression that the LCER staff was disappointed that more districts have not been penalized by deduction of PSEN Aid. Because the deductions have been minimal, and because SED has helped districts to correct the ST-3, SED is criticized for not requiring PSEN Aid expenditure to be reported separately. It is important to state that correction of the ST-3 is completely appropriate and necessary - it has long been a written part of all state aid auditing by the SED, both before and after PSEN Aid.	

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Manpower Training in New York State, February 18, 1971.*

Narcotic Drug Control in New York State, April 7, 1971.*

Fish and Wildlife Research in New York State, June 24, 1971.

Marital Conciliation in New York State Supreme Court, August 18, 1971.

Construction of Dormitories and Other University Facilities, December 1, 1971.

Office Space for New York State, January 17, 1972.

State Supplied Housing for Employees, February 11, 1972.

Middle Income Subsidized Housing in New York State, February 29, 1972.

New York State Criminal Justice Information System, March 17, 1972.

New York State Division For Youth Programs, April 21, 1972.

Snow and Ice Control in New York State, May 31, 1972.

Urban Education Evaluation Reports for the Legislature, June 30, 1972.

The Role of the Design and Construction Group in the New York State Construction Program, July 7, 1972.

Consumer Food Health Protection Services, August 17, 1972.

Milk Consumer Protection Programs, September 15, 1972.

State University Construction Fund Program, October 5, 1972.*

Surplus and Unused Land in New York State, January 15, 1973.

Evaluation of Two Year Public College Trends, 1966-1971, April 2, 1973.

Educational Television in New York State, July 6, 1973.

Construction of Mental Hygiene Facilities, October 3, 1973.

Community Mental Health Services, October 10, 1973.

The Acquisition and Construction of Drug Abuse Treatment Facilities, January 18, 1974.

State University Health Science Programs, January 24, 1974.

Day Care of Children, February 14, 1974.

State Aid to Libraries, March 4, 1974.

Health Insurance For Government Employees, May 30, 1974.

Civil Service Recruitment of State Professional Personnel, June 1", 1974.

Retail Services Within State Agencies, September 10, 1974.

Nuclear Development and Radiation Control, October 1, 1974.

College for the Disadvantaged, October 15, 1974.

Driver Licensing and Control Programs, October 20, 1974.

State Historic Preservation Programs, November 1, 1974.

Industrial Development in New York State, November 25, 1974.

Programs for the Aged, March 31, 1975.

New York State Fair, April 15, 1975.

New York State Parkways, April 21, 1975.

Tri-State Regional Planning Commission Programs, May 5, 1975.

Foster Care For Children, May 29, 1975.

Disadvantaged Students in Public Two-Year Colleges, July 25, 1975.

Human Rights Programs in New York State, August 18, 1975.

Patients Released From State Psychiatric Centers, August 29, 1975.*

Financial Aid to Crime Victims, October 31, 1975.

Persons Released From State Developmental Centers, December 18, 1975.

New York State Job Placement Programs, December 30, 1975.

Pre-Kindergarten Programs, December 31, 1975.*

DOT Real Estate Program, April 15, 1976.

Solid Waste Management in New York State, May 20, 1976.

Boards of Cooperative Educational Services Programs, June 28, 1976.

Boards of Cooperative Educational Services Finances, June 30, 1976.

Workmen's Compensation Program for State Employees, July 30, 1976.*

Public Pension Fund Regulation, October 29, 1976.

Computers in New York State Government, December 1, 1976.

Health Planning in New York State, January 3, 1977.*

The Optional Service Charge Law, March 11, 1977.

Immunization of Children, May 27, 1977.

State Parks and Recreation Program, October 11, 1977.

State Travel Costs, December 15, 1977.

Venereal Disease Control, December 16, 1977.

State Environmental Permits, December 19, 1977.

Pupil Transportation Programs, January 30, 1978.*

Housing Maintenance Code Enforcement in New York City, March 31, 1978.

Vacation Credit Exchange, June 16, 1978.

Adirondack Park Planning and Regulation, July 31, 1978.

School Food Programs, August 7, 1978.

SUNY Developing and Nontraditional Colleges, September 26, 1978.

Newborn Metabolic Screening Program, October 31, 1978.

Fiscal Effect of State School Mandates, December 20, 1978.

School District Budget Voting and Contingency Budgeting, December 26, 1978.

State Aid for Operating Sewage Treatment Plants, April 16, 1979.

Crime Victims Compensation Program, April 23, 1979.

Drinking Driver Program, May 15, 1979.

Unemployment Insurance for State Employees, July 20, 1979.

Work Programs for Welfare Recipients, August 3, 1979.

CETA Programs in New York State, August 24, 1979.

Parole Resource Centers Program, August 31, 1979.

Local Government Use of State Contracts, October 15, 1979.

Use of State Adult Psychiatric Centers, February 29, 1980.

National Guard Strength and Armories, March 17, 1980.

School District Committees on the Handicapped, April 15, 1980.

Delinquency Prevention and Youth Development Programs, May 2, 1980.

Energy Use in State Facilities, June 11, 1980.

Occupational Education in Secondary Schools, July 8, 1980.

Use of State Developmental Centers, November 6, 1980.

Energy Research and Development Programs, December 24, 1980.

State Subsidized Low Rent Public Housing, December 31, 1980.

Taxpayer Services Program, March 9, 1981.

Title XX Social Services, March 13, 1981.

State Prison Inmate Health Services, June 19, 1981.

Runaway and Homeless Youth, July 15, 1981

State Mandates to Counties, August 14, 1981.

Control of the State Telephone System, August 21, 1981.

Hospital and Nursing Homes Management Fund, October 5, 1981.

Methadone Program, December 21, 1981.

Regulation of Automotive Repair Shops, December 24, 1981.

School District Cash Management, December 29, 1981.

Pupils With Special Educational Needs, April 30, 1982.

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